

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 149/TT/2024

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member**

Date of Order: 19.09.2025

In the matter of:

Approval of transmission tariff under Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for determination of the Transmission Tariff from the COD to 31.3.2024 for 2 nos. of 400 kV line bays at Padghe (PG) GIS for termination of Padghe (PG) – Kharghar 400 kV D/C (quad) line under “Western Region System Strengthening Scheme – XIX” in the Western Region.

And in the matter of:

Power Grid Corporation of India Limited,
“Saudamini”, Plot No. 2,
Sector 29, Gurgaon-122001 (Haryana).

...Petitioner

Vs.

- 1. Madhya Pradesh Power Management Company Limited,**
Shakti Bhawan, Rampur,
Jabalpur- 482008.
- 2. Madhya Pradesh Audyogik Kendra,**
Vikas Nigam (Indore) Limited, 3/54, Press Complex,
Agra-Bombay Road, Indore-452008.
- 3. Maharashtra State Electricity Distribution Company Limited,**
Hongkong Bank Building, 3rd Floor,
M.G. Road, Fort, Mumbai-400001.
- 4. Gujarat Urja Vikas Nigam Limited,**
Sardar Patel Vidyut Bhawan, Race Course Road,
Vadodara-390007.



5. **Electricity Department,**
Government of Goa, Vidyut Bhawan, Panaji,
Near Mandvi Hotel, Goa-403001.
 6. **Electricity Department,**
Administration of Daman & Diu,
Daman-396210.
 7. **DNH Power Distribution Corporation Limited,**
Vidyut Bhawan, 66 kV Road, Near Secretariat Amla,
Silvassa-396230.
 8. **Chhattisgarh State Power Distribution Corporation Limited,**
P.O. Sunder Nagar, Dangania, Raipur,
Chhattisgarh- 492013.
 9. **Mumbai Urja Marg Limited,**
(Erstwhile Vapi-II North Lakhimpur Transmission Limited)
(A Subsidiary of Sterlite Power Transmission Limited),
DLF Cyber Park, Tower-B, 9th Floor, Udyog Vihar Phase-III,
Sector-20, Gurugram, Haryana-122008.
 10. **Central Transmission Utility of India Limited,**
Saudamini, Plot No. 2, Sector-29,
Gurugram- 122001.
- ... Respondent(s)

Parties Present : Shri, Gaurav Dudeja, Advocate, MUML
Shri Dhruval Singh, Advocate, MUML
Ms. Nishtha Goel, Advocate, MSEDCL
Shri Mohd. Mohsin, PGCIL
Shri Arjun Malhotra, PGCIL
Shri Amit Garg, PGCIL
Shri Ranjeet Kumar Pandey, PGCIL
Shri Divyanshu Mishra, PGCIL
Shri Vishal Sagar, PGCIL

ORDER

The Petitioner, Power Grid Corporation of India Limited (PGCIL), has filed the instant Petition for the determination of the transmission tariff from the date of commercial operation (COD) to 31.3.2024 under the Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 (hereinafter referred to as “the 2019



Tariff Regulations”) with respect to 2 Nos. 400 kV line bays at Padghe (PG) GIS for termination of Padghe (PG)-Kharghar 400 kV D/C (quad) line (hereinafter referred to as “the transmission asset”) under the “Western Region System Strengthening Scheme-XIX” (hereinafter referred to as “the transmission project”) in the Western Region.

2. The Petitioner has made the following prayers in the instant Petition:

- 1) *“Approval of the DOCO as claimed in the instant petition.*
- 2) *Admit the capital cost as claimed in the Petition and approve the Additional Capitalization incurred / projected to be incurred.*
- 3) *Allow the entire IEDC claimed under this petition.*
- 4) *Approve the Transmission Tariff for the tariff block 2019-24 block for the asset covered under this petition, as per para – 8 above.*
- 5) *Allow the Petitioner to recover the shortfall or refund the excess Annual Fixed Charges, on account of Return on Equity due to change in applicable Minimum Alternate/Corporate Income Tax rate as per the Income Tax Act, 1961 (as amended from time to time) of the respective financial year directly without making any application before the Commission as provided in Tariff Regulation 2019 as per para 8 above for respective block.*
- 6) *Approve the reimbursement of expenditure by the beneficiaries towards petition filing fee, and expenditure on publishing of notices in newspapers in terms of Regulation 70 (1) Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019, and other expenditure (if any) in relation to the filing of petition.*
- 7) *Allow the Petitioner to bill and recover Licensee fee and RLDC fees and charges, separately from the respondents in terms of Regulation 70 (3) and (4) Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019.*
- 8) *Allow the petitioner to bill and adjust impact on Interest on Loan due to change in Interest rate on account of floating rate of interest applicable during 2019-24 period, if any, from the beneficiaries.*
- 9) *Allow the Petitioner to claim the overall security expenses and consequential IOWC on that security expenses separately.*
- 10) *Allow the Petitioner to claim the capital spares at the end of tariff block as per actual.*
- 11) *Allow the Petitioner to bill and recover GST on Transmission Charges separately from the respondents, if GST on transmission is levied at any rate in future. Further,*



any taxes including GST and duties including cess etc. imposed by any statutory/Govt./municipal authorities shall be allowed to be recovered from the beneficiaries.

12) Allow interim tariff in accordance with Regulation 10 (3) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for purpose of inclusion in the PoC charges.

13) Allow Final tariff in accordance with Regulation 10 (5) of Central Electricity Regulatory Commission (Terms and Conditions of Tariff) Regulations, 2019 for purpose of inclusion in the PoC charges

and pass such other relief as Hon'ble Commission deems fit and appropriate under the circumstances of the case and in the interest of justice."

Background

3. The brief facts of the case are as under:

- (i) The Investment approval (the 'IA') of the transmission project was accorded by the competent authority of the Petitioner's company on 30.3.2021 and circulated vide the Memorandum No. C/CP/PA2021-12-0AK-IA016 dated 30.3.2021 with an estimated cost of ₹8465.00 lakh, including the Interest During Construction (IDC) of ₹410.00 lakh, based on the September 2020 price level.
- (ii) As per the IA dated 30.3.2021, the scope of the work covered under the transmission project is as under:

Part-A

A) Additional 400 kV outlets from Banaskantha 765/400 kV Sub-station

- 2 nos. 400 kV line bays at Banaskantha (PG)
[for termination of LILO of the second circuit of Zerda – Ranchodpura 400 kV D/C line at Banaskantha (PG) Pooling Station]



Part-B

B) Additional ISTS feed to Navi Mumbai 400/220 kV Sub-station of POWERGRID

- 2 nos. 400 kV line bays at Padghe (PG)

[for termination of Padghe (PG) – Kharghar 400 kV D/C (quad) line]

- (iii) The Petitioner has submitted that the transmission project was approved in the 41st Standing Committee Meeting on Power System Planning in WR (SCMPSPWR) held on 21.12.2016 and was further ratified in the 34th WRPC meeting held on 28.7.2017. Subsequently, in the 2nd meeting of the Empowered Committee on Transmission (after re-constitution) held on 6.8.2018, it was decided that the augmentation/modification works at the existing ISTS Sub-stations would be under the scope of the respective owner of the Sub-station under the RTM. Accordingly, it was decided that the transmission project would be implemented under the RTM by the Petitioner.
- (iv) The details of the transmission assets covered under the transmission project are as under:

Asset	Name of Asset	COD claimed under 5(2) of the 2019 Tariff Regulations.	Petition No.	Status
1	2 nos. 400 kV line bays at Banaskantha (PG)	21.4.2022	63/TT/2023	Tariff from the COD to 31.3.2024 was determined vide order dated 18.7.2024.
2	2 nos. 400 kV line bays at Padghe (PG) GIS for termination of Padghe (PG) – Kharghar 400 kV D/C (quad) line	30.8.2023	Covered under the instant Petition	

****The Padghe (PG)-Kharghar 400 kV D/C quad line to be terminated into one ckt. of Kharghar-Ghatkopar 400 kV D/C line (thus forming Padghe (PG) -Kharghar 400 kV S/C quad line, Padghe (PG) -Ghatkopar 400 kV S/C quad line) is being implemented****



- (v) The transmission asset under the transmission project has been completed. The Petitioner has proposed the COD of the transmission asset as 30.8.2023 under Regulation 5(2) of the 2019 Tariff Regulations due to the delay caused in the completion/commissioning of the associated transmission system under the scope of Mumbai Urja Marg Limited (MUML). The details of the scheduled date of commercial operation (SCOD), date of commercial operation (COD), and time overrun of the transmission asset are as under:

Asset Name	SCOD	Proposed COD	Delay
2 nos. of 400kV line bays at Padghe (PG) GIS for termination of Padghe (PG) – Kharghar 400 kV D/c (quad) line	30.8.2023	30.8.2023	Nil

4. The Respondents, mainly the beneficiaries of the Western Region, are the Distribution Licensees, Transmission Licensees and Power Departments, which are procuring transmission services from the Petitioner.

5. The Petitioner has served a copy of the Petition on the Respondents, and notice regarding the filing of this Petition has been published in the newspapers in accordance with Section 64 of the Electricity Act, 2003. No comments or suggestions have been received from the general public in response to the aforesaid notice published in the newspapers by the Petitioner. Respondent No. 1, Madhya Pradesh Power Management Company Limited (MPPMCL), vide the affidavit dated 21.12.2024 and Respondent No. 3, Maharashtra State Electricity Distribution Company Limited (MSEDCL), vide the affidavit dated 16.12.2024, had filed their replies and inter alia raised the issue of the proposed COD, IEDC claimed, GST claimed and sharing of the transmission charges.



Respondent No. 9, Mumbai Urja Marg Limited (MUML), vide affidavit dated 21.12.2024, had filed its reply inter alia raising the issue of the proposed COD and sharing of the transmission charges. The Petitioner has filed its rejoinders to the replies of MPPMCL, MSEDCL, and MUML vide separate affidavits dated 6.1.2025. The contentions raised by the Respondents and the clarifications given by the Petitioner have been dealt with in the relevant paragraphs of this order.

6. The hearings in the matter were held on 23.1.2025, and the order was reserved.

7. This order is being issued considering the Petitioner's submissions in the Petition vide affidavit dated 8.2.2024 and subsequent affidavits dated 12.9.2024 and 9.12.2024, and written submission dated 12.2.2025, The reply filed by MPPMCL, MSEDCL, and MUML vide affidavits dated 21.12.2024 and 16.12.2024, respectively, and the written submissions dated 12.2.2025 and 6.2.2025 filed by MSEDCL and MUML, respectively and the Petitioner's rejoinder to the reply of MPPMCL, MSEDCL and MUML vide separate affidavits dated 6.1.2025.

8. Having heard the Petitioner's representatives and the learned counsels for the Respondents and having perused the material on record, we proceed to dispose of the Petition.

DETERMINATION OF ANNUAL FIXED CHARGES FOR 2023-24

9. The Petitioner has claimed the following transmission charges for the transmission asset:



(₹ in lakh)	
Particulars	2023-24 (pro-rata for 215 days)
Depreciation	134.58
Interest on Loan	136.17
Return on Equity	139.96
Interest on Working Capital	7.47
O&M Expenses	30.35
Total AFC	448.53

10. The Petitioner has claimed the following Interest on Working Capital (IWC) for the transmission asset:

(₹ in lakh)	
Particulars	2023-24 (pro-rata for 215 days)
O&M Expenses	4.31
Maintenance Spares	7.75
Receivables	93.88
Total Working Capital	105.94
Rate of Interest (in %)	12.00
Interest on Working Capital	7.47

Date of Commercial Operation (“COD”)

11. The Petitioner has submitted that as per the IA dated 30.3.2021, the transmission asset was scheduled to be commissioned by 29 months from the date of the IA, which comes to be as 30.8.2023, against which the transmission asset became ready and had completed the WRLDC trial operation (idle charging) on 19.8.2023 at 12:32 hrs. Therefore, there is no time overrun in the commissioning of the transmission asset. The Petitioner has claimed the COD of the transmission asset as 30.8.2023 under Regulation 5(2) of the 2019 Tariff Regulations, as the power flow could not take place due to the delay in commissioning of the associated downstream transmission system being executed by MUML [Erstwhile VAPI-II North Lakhimpur Transmission Limited (VNLTL)] under the TBCB regime.



12. Further, in compliance to the Commission's query vide RoP for the hearing dated 18.11.2024, the Petitioner has submitted that the Petitioner is not privy to the Transmission Service Agreement (TSA) signed between MUML and its Long-Term Transmission Customers (LTTCS) as of now and thus, the Petitioner was not in a position to inform the SCOD for the TBCB line as stipulated in the TSA with certainty. The Petitioner has further submitted that vide letter dated 24.6.2020 and 8.9.2020, MUML requested the CEA to revise the SCOD from 22.12.2023 to 24.12.2022 due to early commissioning of its scope of works for Padghe (PG)-Kharghar 400 kV D/C quad line to be terminated into one ckt. of Kharghar-Ghatkopar 400 kV D/C line (thus forming Padghe (PG)-Kharghar 400 kV S/C quad line, Padghe (PG)-Ghatkopar 400 kV S/C quad line). Accordingly, a meeting was held under the chairmanship of the Chairperson CEA on 3.11.2020, and, vide MoM dated 27.11.2020, the completion schedule was compressed from 22.12.2023 to 31.8.2023. The same was also noted and agreed upon in the 31st JCC meeting, held on 26.3.2021, in which the SCOD for 2 nos. 400 kV line bays at Padghe (PG) GIS Sub-station was finalized as on 31.7.2023.

13. MSEDCL, in its reply and written submission, has submitted as under:

- a. The Petitioner has claimed the COD of the transmission asset as 30.8.2023 on the basis of successful trial operations, however, the absence of power flow confirms that the project was not operational and the transmission asset which was to be commissioned by MUML, was incomplete and the said transmission line was commissioned only in September 2024, and the delay was due to the delay caused in the associated transmission system. In any circumstances, the beneficiaries, including MSEDCL, herein, should not be made liable for the



transmission charges prior to the actual power flow. Reliance has been placed on the order dated 16.5.2024 in the Petition No. 180/TT/2021, passed by the Commission, wherein the pleadings qua the tariff charges for the period from the date of trial operations to the actual date of commissioning of the associated transmission line were not considered. The relevant extract is as under:

“15. Without going into the merits of the claims of the Petitioner for approval of the COD of the transmission asset as 13.5.2019, condonation of the time over-run, cost over-run and the sharing of the transmission charges, and the objections raised by MMPCL, MSEDCL, and MSETCL in the instant petition, we hereby direct the petitioner in the exercise of regulatory power to file a fresh petition within 60 days of COD of the above-referred transmission elements, i.e., A(i), A(ii) and A(iii) under the scope of MUML and the declaration of the COD of the transmission asset. The Respondents are at liberty to raise their concerns in the said petition. The Petitioner's claims and the Respondent's objections, if any, will be dealt with as per the applicable regulations.”

- b. The absence of the established power flow confirms that the transmission project was not operational, which is quite evident that the transmission service was yet to be provided and the Project, which was not available for use by the beneficiaries, till September 2024.

14. MPPMCL, in its reply, has submitted as under:

- a. The absence of established power flow confirms that the project covered under the Petition was not operational, and evidently, the transmission service was not provided and the Project, which was not available for use by the beneficiaries, till the 31.3.2024.
- b. The Hon'ble Supreme Court vide judgment dated 3.3.2016 in Civil Appeal No. 9193 of 2012, in the case of PGCIL vs. PSPCL & Ors., reported as (2016) 4 SCC 797, has inter-alia, held that the COD of the transmission lines can be



achieved only on the fulfilment of certain conditions. The relevant para of the judgment is reproduced as under:

“7. The language in the above definition is clear and unambiguous. We agree with the Tribunal that COD of transmission lines can be achieved only on fulfilment of following three conditions:

- (i) The line has been charged successfully*
- (ii) Its trial operation has been successfully carried out, and*
- (iii) It is in regular service.”*

However, the instant case does not fulfil the afore-stated conditions.

- c. Further, the Hon’ble Supreme Court vide judgment dated 3.3.2016, has also held that until the power flows from the transmission system, the beneficiaries should not be burdened with the tariff. The relevant para of the said judgment is reproduced herein as under:

“13. Since we are in agreement with the Tribunal that in the present case, Respondent No. 1 and the beneficiaries could not have been made liable to pay the tariff before the transmission line was operational, we find no infirmity in the impugned order. Therefore, the appeals are liable to be dismissed. Accordingly, both the appeals are dismissed without prejudice to the right of the Appellant, if any, available to it under law, against NTPC. There shall be no order as to costs.”

- d. Under no circumstances should the beneficiaries, including MPPMCL, be made liable to bear the transmission charges of the bays covered under the Petition prior to the actual power flow, which had not taken place till 31.3.2024. Therefore, the liability to pay the transmission charges for such prior period under the guise of the COD would be contrary to the law as settled on the issue by the Hon’ble Supreme Court, as referred herein above and, therefore, cannot be fastened to the beneficiaries. Accordingly, the liability, if any, to pay the transmission charges with respect to the aforesaid line bays covered under the instant Petition, before the



actual power flow through them, should not be imposed on the beneficiaries, including MPPMCL.

15. MUML, in its reply and written submissions, has submitted as under:

- a. The Petitioner cannot claim the proposed COD in terms of Regulation 5(2) of the 2019 Tariff Regulations, prior to the commissioning of the PK Line, which is 24.8.2024 (Original SCOD of PK Line was 22.12.2023, which was extended by virtue of the order of the Ministry of Power (MoP) and Force Majeure events). Therefore, the instant Petition is misconceived and ought to be rejected.
- b. The Petitioner has not complied with the requirements of Regulation 5(2) of the 2019 Tariff Regulations. In particular, the Petitioner has not provided sufficient notice of at least one month regarding the commissioning of the transmission asset to MUML.
- c. In terms of Regulation 5(2) of the 2019 Tariff Regulations, a transmission licensee is only entitled to declare the COD when its transmission system/element is ready, but the interconnected transmission system is not ready as per its agreed project implementation schedule. In Regulation 5(2), as extracted hereinabove, the reference to the term 'agreed project implementation schedule' of the other transmission licensee makes it clear that the COD of the Petitioner cannot be before the SCOD of the inter-connecting transmission licensee. As per Regulation 5(2) of the 2019 Tariff Regulations, the impacted transmission licensee has no locus to declare its deemed COD as a date before the SCOD of the interconnected transmission system.



- d. Accordingly, the approval of the proposed COD, as claimed by the Petitioner, cannot be accepted by the Commission as the same are in clear contravention of Regulation 5(2) of the 2019 Tariff Regulations. The agreed SCOD of the PK Line, only on account of the MoP orders, is 22.8.2024. Therefore, PGCIL cannot seek COD prior to 22.8.2024.
- e. The Petitioner's claim that the commissioning of the transmission asset is on 30.8.2023 is wrong and denied as the same are in violation and contrary to Regulation 5(2) of the 2019 Tariff Regulations and not in line with the MUML's TSA and contrary to various orders passed by the Commission time to time.
- f. The Petitioner is trying to mislead the Commission by referring to the minutes of the meeting dated 3.11.2022. In the same minutes of the meeting dated 3.11.2022, it was clearly mentioned that the date shall be subject to modifications based on the progress of the MUML Project. Pertinently, the CEA in its MoM specified that SCOD may be finalized at a later stage, if all parties agree.
- g. The SCOD decided upon and contemplated in the minutes of the meeting dated 27.11.2020 were not final and subject to further revision based on the progress of the PK Line and once a final date was agreed by the parties as per the mechanism provided in the MoP policy dated 15.7.2015 and the TSA.
- h. The Petitioner is trying to mislead the Commission by referring to the letters dated 24.6.2020 and 8.9.2020 and the MoM dated 27.11.2020. The Petitioner has not placed on record the subsequent communication dated 28.12.2022 issued by the MoP to the CEA and other stakeholders, recognising the



expected COD for the MUML Project in June 2024. The commissioning dates of the said meeting dated 27.11.2020 were indicated considering the progress of the PK Line at that time, and the MoM clearly provided that such date shall be subject to modifications based on the progress of the PK Line. The early commissioning was never finalized and acted upon by the stakeholders as per the mechanism prescribed by the MoP Policy. Since the above-stated mechanism was not acted upon by the stakeholders, the SCOD was never postponed.

16. The Petitioner, in its rejoinder to the reply of MSEDCL and MPPMCL, has submitted that the Respondents' reliance on the Barh-Balia judgement is misplaced. In fact, the Commission has created a regulatory provision, vide Regulation 5(2) of the 2019 Tariff Regulations, to claim the COD of the transmission element in case the matching transmission element to be developed by the other transmission licensee has not been commissioned. Accordingly, the Petitioner has claimed the COD for the transmission asset under Regulation 5(2) of the 2019 Tariff Regulations.

17. Further, the Petitioner, in its rejoinder to the reply of MUML, has submitted that the Petitioner's assets were scheduled to be commissioned on 30.8.2023, and accordingly, the Petitioner commissioned its scope of work on 30.8.2023. The Petitioner achieved the COD of its transmission asset, whereas the transmission asset in the scope of MUML was not commissioned on the claimed COD of the Petitioner. Accordingly, the Petitioner's asset could not be utilized despite its commissioning due to the delay in the completion/ commissioning of the scope of MUML; as a result, it was unable to provide service for reasons not attributable to itself. The Petitioner has submitted that the contention raised



by MUML revolves around the early commissioning of the Petitioner's assets. Further, the Petitioner has reiterated its submissions and, in addition, the Petitioner has submitted that in order to meet the commitment, the Petitioner expedited the implementation of its scope of works and also served notice of intimation dated 30.6.2023 to MUML informing about the readiness of its scope of works. As the inter-connecting transmission line in the scope of MUML was not ready, the Petitioner has claimed the COD of the bays as 30.8.2023 under Regulation 5(2) of the 2019 Tariff Regulations. The averment of MUML in contesting that commissioning dates in the aforementioned meetings were indicated considering the progress of the PK Line at that time, and the MoM clearly provide that such dates shall be subject to modifications based on the progress of the PK Line, is erroneous and does not portray the correct factual matrix. A bare perusal of the meeting dated 3.11.2020 reveals that the SCOD of the line bays and inter-connecting transmission line was revised as August 2023 / July 2023. MUML has demonstrated inconsistency by initially insisting on the early commissioning of the project and later retracting its position, asserting that no agreement or decision for early commissioning was ever finalised or was contingent on the project's progress. This shift in stance disregards the collaborative efforts and mutual decisions documented in the coordination meetings, reflecting an imprudent approach that undermines the integrity of the process. It is evident from the monthly progress report of the CEA that MUML has communicated August 2023 as its SCOD till March 2022, and it was only from April 2022 onwards that the expected commissioning date was communicated as December 2023. Further, the reliance placed by MUML on the PSPTCL judgment of the APTEL is incorrect as the factual position in that case is different from the present case."



18. The Petitioner has further submitted that the Petitioner has fully complied with the regulatory mandate by serving a notice dated 30.6.2023 on MUML regarding the readiness of PGCIL's scope of works. The said notice was duly acknowledged and responded to by MUML, confirming their awareness and involvement in the process.

19. The Petitioner has also submitted that the COD claimed under Regulation 5(2) of the 2019 Tariff Regulations is fully compliant with regulatory requirements and aligns with the revised schedule agreed upon during the various meetings.

Analysis and Decision on the COD

20. As per the IA dated 30.3.2021, the transmission asset was scheduled to be commissioned within 29 months from the date of IA, i.e., 30.8.2023. The Petitioner has submitted that the scope of work under the Petitioner has been completed and, therefore, the Petitioner has claimed the COD of the instant transmission asset as 30.8.2023 under Regulation 5(2) of the 2019 Tariff Regulations.

21. Regulation 5 of the 2019 Tariff Regulations provides as under:

"5. Date of Commercial Operation: (1) The date of commercial operation of a generating station or unit thereof or a transmission system or element thereof and associated communication system shall be determined in accordance with the provisions of the Grid Code.

(2) In case the transmission system or element thereof executed by a transmission licensee is ready for commercial operation but the interconnected generating station or the transmission system of other transmission licensee as per the agreed project implementation schedule is not ready for commercial operation, the transmission licensee may file petition before the Commission for approval of the date of commercial operation of such transmission system or element thereof:

Provided that the transmission licensee seeking the approval of the date of commercial operation under this clause shall give prior notice of at least one month, to the generating company or the other transmission licensee and the long-term customers of its transmission system, as the case may be, regarding the date of commercial operation:



Provided further that the transmission licensee seeking the approval of the date of commercial operation of the transmission system under this clause shall be required to submit the following documents along with the petition:

- (a) Energisation certificate issued by the Regional Electrical Inspector under Central Electricity Authority;*
- (b) Trial operation certificate issued by the concerned RLDC for charging element with or without electrical load;*
- (c) Implementation Agreement, if any, executed by the parties;*
- (d) Minutes of the coordination meetings or related correspondences regarding the monitoring of the progress of the generating station and transmission systems;*
- (e) Notice issued by the transmission licensee as per the first proviso under this clause and the response;*
- (f) Certificate of the CEO or MD of the company regarding the completion of the transmission system including associated communication system in all respects.*

22. In support of the COD claimed, the Petitioner has submitted that the CEA Energization Certificate dated 30.3.2023, the CMD Certificate and WRLDC Charging Certificate dated 1.11.2023 certifying that it has successfully completed the 'No load' trial operation on 19.8.2023.

23. MPPMCL, MSEDCL and MUML have raised the contentions with respect to the COD claimed by the Petitioner under Regulation 5(2) of the 2019 Tariff Regulation.

24. The Petitioner has submitted that the scheme was approved in the 41st Standing Committee Meeting on Power System Planning in WR (SCMPSPWR) held on 21.12.16 and was further ratified in the 34th WRPC meeting held on 28.7.2017. As per the decision in the 2nd meeting of the Empowered Committee on Transmission (after re-constitution) held on 6.8.2018, it was inter alia decided that the bays shall be implemented under RTM by the Petitioner. The said bays were implemented for Padghe (PG) – Kharghar 400 kV D/C quad line, which was under the scope of MUML. The Petitioner has further submitted that, as requested by MUML vide Letter dated 24.6.2020 and 8.9.2020, the completion schedule of the associated TBCB line under the scope of MUML was preponed and



revised from 22.12.2023 to 31.8.2023. Accordingly, as per the IA dated 30.3.2021, the Petitioner has claimed the COD of the transmission asset as 30.8.2023 under Regulation 5(2) of the 2019 Tariff Regulations, as the associated downstream transmission line being executed by MUML was not ready.

25. The MUML in its reply has submitted that the Petitioner has not provided sufficient notice of at least one month regarding the commissioning of the transmission asset to MUML. MUML has further submitted that the Petitioner cannot claim the proposed COD in terms of Regulation 5(2) of the 2019 Tariff Regulations, prior to the commissioning of the PK Line, which is 24.8.2024 (Original SCOD of PK Line was 22.12.2023, which was extended by virtue of the order of the MoP and Force Majeure events). MUML has also submitted that in the meeting dated 3.11.2022, it was clearly mentioned that the date shall be subject to modifications based on the progress of the MUML Project. Pertinently, the CEA in its MoM specified that SCOD may be finalized at a later stage if all parties agree. The Petitioner submitted that the SCOD decided upon and contemplated in the minutes of the meeting dated 27.11.2020 was not final and subject to further revision based on the progress of the PK Line at that time, and the minutes of the meeting clearly provide that such a date shall be subject to modifications based on the progress of the PK Line. It has been submitted that the early commissioning was never finalized and acted upon by the stakeholders as per the mechanism specified by the MoP Policy. Since the above-stated mechanism was not acted upon by the stakeholders, the SCOD cannot be said to be preponed.



26. We have considered the Petitioner's submission and gone through the documents placed on record. It has been observed that the Petitioner has intimated the expected commissioning of the transmission asset to the MUML and requested to update the status of the associated transmission line vide letter dated 30.6.2023. Therefore, as the one-month notice has been served by the Petitioner in accordance with Regulation 5(2) of the 2019 Tariff Regulation to MUML, the contention of the MUML that the Petitioner has not provided sufficient notice of at least one month regarding the commissioning of the Asset does not hold good and is accordingly rejected.

27. Further, we have perused the documents and observed that the MUML [Erstwhile VAPI-II North Lakhimpur Transmission Limited (M/s VLTL)] requested the concerned authority of CEA to revise the SCOD of the associated downstream transmission line, i.e., Padghe (PG) – Kharghar 400 kV D/C quad line to be terminated into one circuit of Kharghar – Ghatkopar 400 kV D/C line (thus forming Padghe (PG) - Kharghar 400 kV S/C quad line, Padghe (PG) – Ghatkopar 400 kV S/C quad line) from 22.12.2023 to 24.12.2022, vide letters dated 24.6.2020 and 8.9.2020, with copy to all the concerns including the Petitioner.

28. In this regard, it has been observed that the MoP issued a policy vide its OM dated 15.7.2015 for incentivizing early commissioning of the transmission projects, particularly transmission system strengthening, the scheme under the tariff-based competitive bidding and the schemes awarded to the Petitioner under a compressed time schedule on a cost-plus basis. The relevant extracts of the OM dated 15.7.2015 are as under:



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1.1 For transmission system strengthening schemes under tariff bases Competitive Bidding (TBCB) and also for such awarded to PGCIL under compressed time schedule on cost plus basis, the developer shall get the following incentive for early commissioning of transmission projects.

- (i) Entitlement of the transmission charges from the actual date of commercial Operation (COD) prior to the original schedule COD. However, the number of years of applicability of tariff would be remain unchanged i.e. for 25/35 yaers , as the case may be.

Note : The above incentative will be applicable for the transmission projects(s)/element(s) which are undre implementation/yet to be bid out under TBCB/yet to be assigned to CTU (PGCIL) under compressed time schedule.

-----”

29. Subsequently, the MoP vide its OM dated 5.10.2016 constituted a Committee under the Chairmanship of Member (Power System) CEA and provided for a mechanism to be followed by the Committee to determine the revised COD based on the request received 24 months in advance of the intended early SCOD from the transmission licensee seeking early commissioning. The OM dated 5.10.2016 is extracted as under:



Dated, 5th October, 2016

OFFICE MEMORANDUM

Subject: - Constitution of Committee to ensure smooth operationalization of the Policy for early commissioning of Transmission Projects, issued by Ministry of Power on 15.7.2015

The undersigned is directed to inform that it has been decided with the approval of Competent Authority to constitute a committee to ensure smooth operationalization of the Policy for incentivizing early commissioning of Transmission Projects, issued by Ministry of Power on 15.7.2015.

2. Composition of the Committee shall be as mentioned below:

Sl. No.	Constituent of the Committee	Capacity
1	Member (Power System), CEA	Chairperson
2	COO (CTU- Plg), PGCIL	Member
3	CEO, POSOCO	Member
4	Chief Engineer, PSPA- II, CEA	Member
5	Chief Engineer, PSPA- I, CEA	Convener & Member Secretary
6	Representatives of STUs of concerned State Utilities, LLTC and Generation project developer (if ATS)	As invitees (as the case may be)
7	Representatives of the transmission project developer	As invitee

3. Committee shall look into and resolve various issues related to Policy for incentivizing early commissioning of Transmission Projects in respect of various ISTS lines, as per following mechanism:

- Transmission licensee may send their request for revised early Scheduled Commercial Operation Date (SCoD) well in advance (i.e. 24 months in advance of the Intended early SCoD) to the Convener & Member Secretary of the committee and communicate the same to the implementing agencies of the interconnecting (upstream/ downstream) elements.
- The Committee, will discuss the early SCoD request received from transmission licensee and may take a decision on early commissioning, based on usefulness of the early commissioning for the system and mutual indemnification agreements between Transmission Licensee/ STU/ POWERGRID/ existing Transmission Licensee/ Generation developer, as the

case may be, whose transmission elements/assets are involved. Accordingly, the committee would state the Revised SCOD (RSCOD) and the TSA would stand modified mutatis mutandis.

- (iii) PSPM Division of CEA may convene quarterly meetings to review the progress of the transmission elements involved in the early commissioning and assess their commissioning in matching RSCOD. The deviations may be brought to the notice of the committee.
- (iv) In case of non-availability of interconnecting elements as per the agreed RSCOD, Committee may explore the alternative arrangement for utilization of Transmission element. The effected parties may seek recourse as per the Indemnification Agreements.

(Bihari Lal)

Under Secretary to the Govt. of India
Tele-fax: 2332 5242
E-mail: transdesk-mop@nic.in

To,

1. Member (PS), Central Electricity Authority
2. Chief Engineer, PSPA- I, CEA
3. Chief Engineer, PSPA- I, CEA
4. Chief Engineer, PSPM, CEA
5. COO (CTU- Plg), PGCIL
6. CEO, POSOCO, New Delhi.

Copy to: PPS to Secretary(Power)/ SS(BPP)/ AS (SP)/ JS(Trans)/ Director (Trans),
MoP.

30. As per Para 3(ii) of the above OM, among other things, the scope of the committee specifies as under:

"The committee will discuss the early SCOD request received from the transmission licensee and may take a decision on early commissioning, based on usefulness of the early commissioning for the system and mutual indemnification agreements between Transmission Licensee/STU/Powergrid/Existing transmission licensee/Generation developer, as the case may be, whose transmission elements/assets are involved. Accordingly, the committee would state the revised SCOD (RSCOD) and the TSA would stand modified mutatis mutandis".

31. Accordingly, with reference to the MUML [Erstwhile VAPI-II North Lakhimpur Transmission Limited (M/s VLTL)], the proposal of early commissioning of the transmission project "being implemented under the TBCB line by VLTL, vide its letters dated 24.6.2020 and 8.9.2020, a meeting of the Committee for smooth operationalization of the Policy for early commissioning of transmission projects constituted vide OM dated 5.10.2016, under the Chairmanship of Member (Power System), CEA was held on 3.11.2020.



32. As per the MoM dated 3.11.2020, MUML proposed to revise the SCOD of the associated transmission line from 22.12.2023 to 24.12.2022, i.e., 363 days before the earlier SCOD. However, during the meeting, the Petitioner conveyed that due to the recent Make in India initiative followed by import restrictions, they are not able to complete the commissioning of the transmission asset before September 2023. Accordingly, after the detailed deliberation and discussion, the SCOD of the associated transmission line under the scope of MUML got revised to 31.8.2023. However, it has been noticed that at the end of the MoM, the revised SCOD of the associated transmission line was mentioned as 31.7.2023, along with the comments that an earlier SCOD may be finalized at a later stage if all the parties agree upon. The relevant extract of the MoM is as under:

“C. Additional ISTS feed to Navi Mumbai 400/220 kV substation of PGCIL

The scope of work under the scheme is given below:

- i. *Padghe (PG) – Kharghar 400 kV D/c (quad) line to be terminated into one ckt. of Kharghar – Ghatkopar 400 kV D/c (quad) line (thus forming Padghe (PG) - Kharghar 400 kV S/c (quad) line, Padghe (PG) - Ghatkopar 400 kV S/c (quad) line)*
- ii. *LILO of Padghe (PG) – Ghatkopar 400kV S/c line at Navi Mumbai GIS (PG) (with quad conductor)*
- iii. *LILO of Apta – Kalwa/Taloja 220 kV D/c line (i.e. Apta – Kalwa and Apta Taloja 220kV lines) at Navi Mumbai (PG)*

M/s VNLTL stated that the SCoD of elements mentioned under C(i) and C(ii) is 22.12.2023 but they intend to complete it by 24.12.2022 i.e 363 days earlier than SCoD. Also, the SCoD of element mentioned under C (iii) is 22.12.2022 which they intend to prepone by 22.06.2022 i.e. by 181 days.

POSOCO stated that early commissioning of the elements within this Part C of the scheme is much needed alongwith the interconnection with Vikhroli S/s and subsequent 220 kV outgoing lines from Vikhroli S/s in same timeframe. The scheme would not provide any benefit if the outgoing 220 kV lines from Vikhroli S/s would not be available. Accordingly, since many implementing agencies are involved, they all need to coordinate to bring the system as early as possible.

CTU stated that the scheme would benefit the system in importing power to Mumbai. It would also enable the utilization of Navi Mumbai S/s which is ready for commissioning since last few years.

MSETCL stated that the intra-state transmission scheme for inter-connection of Vikhroli from Kharghar S/s has been already awarded for implementation to M/s Adani under TBCB mechanism with the Scheduled COD of March, 2022. SPV for the transmission scheme has also been handed over to M/s Adani in June, 2020. He also stated that the 220 kV



lines (elements under the C(iii)) should only be commissioned after the commissioning of Navi Mumbai S/s.

POWERGRID stated that 400kV line bays for the termination of Padghe (PG) – Kharghar 400 kV D/c (quad) line is under the scope of POWERGRID. Due to the recent make in India initiative of the government and followed by import restrictions, they would not be able to commission 2 nos. of 400 kV line bays (GIS) before September, 2023.

M/s VNLTL requested PGCIL to expedite the works related to 2 nos. of 400 kV line bays (GIS) at Padghe (PG) S/s.

CEA stated that in the wake of recent grid disturbance in Mumbai, this scheme has attained a greater significance for providing the grid stability to Mumbai system. With the present scenario and based on the deliberations, the revised SCoD is 31st August, 2023 for the elements under C(i) & C(ii), however the SCoD for elements mentioned under C(iii) is kept unchanged i.e. 22.12.2022."

-----"



After detailed deliberations, the tabulation of revised SCoD is as follows:

S.No	Transmission Elements	SCoD	Revised SCoD
Part A – Additional 400kV outlets from Banaskantha 765/400 kV S/s			
1.	LILO of second circuit of Zerda –Ranchodpura 400 kV D/c line at Banaskantha (PG) PS	22.10.202 2	31.07.2022 #
Part B - Establishment of new substation at Vapi/Ambethi area and its associated transmission line			
1.	Establishment of 2 x 500 MVA, 400/220 kV S/s near Vapi / Ambheti (Vapi – II)	22.04.202 3	22.04.2023##
2.	LILO of KAPP – Vapi 400 kV D/c line at Vapi – II	22.04.202 3	22.04.2023##
3.	125 MVAR bus reactor at Vapi – II Substation	22.04.202 3	22.04.2023##
4.	Vapi-II – Sayali D/C 220kV D/C line • From Vapi-II upto LILO point of one circuit of Vapi(PG) –Khadoli 220kV D/c line at Sayali substation with ampacity equivalent to twin zebra conductor. • Interconnection with LILO section (of LILO of one circuit of Vapi(PG) – Khadoli 220kV D/c line at Sayali substation) so as to form Vapi-II – Sayali 220 kV D/c line and Vapi- Khadoli 220 kV D/c line. (The LILO section is with zebra conductor)	22.04.202 3	22.04.2023##
Part C - Additional ISTS feed to Navi Mumbai 400/220 kV substation of PGCIL			
1.	Padghe (PG) – Kharghar 400 kV D/c (quad) line to be terminated into one ckt. of Kharghar – Ghatkopar 400 kV D/c (quad) line (thus forming Padghe (PG) -	22.12.202 3	31.07.2023 #



38



Page 7 | 9

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File No.CEA-PS-11-18(23)/1/2018-PSPA-I Division

I/12442/2020

	Kharghar 400 kV S/c (quad) line, Padghe (PG) - Ghatkopar 400 kV S/c (quad) line)		
2.	LILO of Padghe (PG) – Ghatkopar 400kV S/c line at Navi Mumbai GIS (PG) (with quad conductor)	22.12.202 3	30.09.2023 #
3.	LILO of Apta – Kalwa/Taloja 220 kV D/c line (i.e. Apta – Kalwa and Apta Taloja 220kV lines) at Navi Mumbai (PG)	22.12.202 2	22.12.2022 #
Part D - North Eastern Region Strengthening Scheme – IX			
1.	Pare HEP (NEEPCO) (from near LILO point) – North Lakhimpur (AEGCL) 132 kV D/c line (with ACSR Zebra conductor) along with 2 no. 132 kV line bays at North Lakhimpur end	22.06.202 3	22.06.2023##
2.	LILO of one circuit of Pare HEP – North Lakhimpur (AEGCL) 132kV D/c line (with ACSR Zebra) at Nirjuli (POWERGRID) substation	22.06.202 3	22.06.2023##

- An earlier SCoD may be finalized at later stage if all parties agree.

- Revised SCoD would be finalized after the consent of other implementing agencies of downstream system.

33. Further, it has been observed that as per the 31st JCC meeting held on 26.3.2021, the SCOD of the transmission asset, i.e., “GIS bays at Padghe (PG)” was compressed from 22.12.2023 to 31.7.2023, in accordance with the MoM of the CEA meeting held on 3.11.2020. The relevant extract of the MoM of the 31st JCC meeting is as under:

		transit.		
6.	WRSS-19 Additional 400kV outlets from Banaskantha 765/400kV S/s 2 nos. of 400kV line bays at Banaskantha (PG) for termination of LILO of second ckt of Zerda-Ranchodpura 400kV D/c line at Banaskantha (PG) PS.	Banaskantha – 02Nos Line Bays (AIS) Type-31.07.2022#	31.07.2022# (anticipated COD of LILO line indicated by Sterlite – Mar'22)	As per the MoM Dt 27 th Nov'2020, CEA during the meeting held on 03 rd Nov'20, compressed the schedule of AIS Bays Ext'n at Banashkantha(PG) from 22 nd Oct'22 to 31 st July 2022 and GIS Bays Ext'n at Padghe(PG) from 22 nd Dec'23 to 31 st July 2023
	Additional ISTS feed to Navi Mumbai 400/200kV S/s of POWERGRID. 2 nos. of 400kV line bays at Padghe (PG) for termination of Padghe (PG) – Kharghar 400kV D/c (quad) line	Padghe (PG) – 02Nos Line Bays (GIS) Type-31.07.2023# #-An earlier SCOD may be finalized at a later stage if all parties agree (as per CEA MOM dated 03.11.2020).	31.07.2023# #-An earlier SCOD may be finalized at a later stage if all parties agree (as per CEA MOM dated 03.11.2020).	NIT Published, Award for AIS and GIS is expected by End of Feb'21



34. Further, the Petitioner itself vide affidavit dated 9.12.2024 and 6.1.2025, has also submitted that the early commissioning plan was reaffirmed at the 31st JCC meeting dated 26.3.2023 and the SCOD of the subject bays was finalized as 31.7.2023. However, in the IA dated 30.3.2021, the Competent Authority of the Petitioner has considered the implementation timeframe of 29 months from the date of the IA for the instant transmission asset.

35. Therefore, as per the above facts we are of the view that in terms of the MoP Policy for early commissioning vide OM dated 15.7.2015, MUML had itself requested to revise the SCOD of the associated transmission line vide letters dated 24.6.2020 and 8.9.2020 and, accordingly, after the detailed deliberation and discussion in the CEA meeting, for the smooth operationalization of the policy dated 3.11.2020 and 31st JCC of the Western Region meeting on 26.3.2021, the SCOD of both the transmission assets, i.e., 2 nos. GIS bays at Padghe (PG) Sub-station (Under the scope of the Petitioner) and the associated transmission line (under the scope of MUML) were revised to 31.7.2023. Thus, we are inclined to consider the SCOD of the instant transmission asset as on 31.7.2023 instead of 30.8.2023 (as per the IA dated 30.3.2021) for the determination of the Annual Fixed Charges (AFC) in the instant order.

36. Further, the CEA Energization Certificate dated 30.3.2023, the WRLDC Charging Certificate dated 1.11.2023, certifying the completion of successful 'No load' trial operation on 19.8.2023, and the CMD Certificate have been submitted by the Petitioner in support of the COD claimed under Regulation 5(2) of 2019 Tariff Regulations, which are as under:





**Government of India
Central Electricity Authority
Regional Inspectorial Organisation
Ground Floor, WRPC Building, F-3, MIDC Area
Marol, Andheri (East), Mumbai 400 093**

ISO: 9001:2015

Telefax: 022 - 28211003

riowestcea@gmail.com

No. WRIO/MH/Padghe/PGCIL/A-11200/SE/2023

10783-84

Dated: 30 MAR 2023

Approval for Energisation

(under Regulation 43 of CEA(Measures relating to Safety and Electric Supply), Regulations,2010)

**Kind Attn: Shri. Sunkara Bheema Reddeswara Rao
M/s Power Grid Corporation Of India Ltd.
765/400kV GIS substation, Village Khaniwali,
Vashind-Ambadi Road, Tal-Bhiwandi, Post Vashind
Distt: Thane, Maharashtra.**

Subject: Approval for Energisation of Electrical Installations of 400kV GIS-bay extension work of M/s Power Grid Corporation Of India Ltd. 765/400kV GIS substation, Village Khaniwali, Vashind-Ambadi Road, Tal-Bhiwandi, Post Vashind Distt: Thane, Maharashtra under regulation 43 of Central Electricity Authority (Measures relating to Safety and Electric Supply), Regulations 2010 (As amended till date).

Reference:

1. Your online application No: A/2023/11200 dated 15/03/2023.
2. Our inspection report Dated: 27/03/2023
3. Your compliance Report: Dated 30/03/2023

Whereas the inspection of Electrical Installation of 400kV GIS-bay extension work of M/s Power Grid Corporation Of India Ltd. 765/400kV GIS substation, Village Khaniwali, Vashind-Ambadi Road, Tal-Bhiwandi, Post Vashind Distt: Thane, Maharashtra was carried out on 25th March, 2023 by the undersigned.

The non-compliances of certain provisions/stipulations of the regulations were conveyed to you vide our office letter under reference at Sl.No.(2) above(Inspection Report) and the compliance of the same has since been received vide your letter under reference at Sl.No. (3) above.

The Approval for energisation of Electrical Installations of 400kV GIS-bay extension work of M/s Power Grid Corporation Of India Ltd. 765/400kV GIS substation, Village Khaniwali, Vashind-Ambadi Road, Tal-Bhiwandi, Post Vashind Distt: Thane, Maharashtra is here by accorded subject to consistent compliance of relevant provisions of CEA (Measures relating to Safety and Electric Supply) Regulations, 2010 (as amended till date) by M/s Power Grid Corporation Of India Ltd. 765/400kV GIS substation, Village Khaniwali, Vashind-Ambadi Road, Tal-Bhiwandi, Post Vashind Distt: Thane, Maharashtra.

The list of equipment's is attached at Annexure-I.

The above apparatus /Installations shall be due for periodical inspection under regulation 30 within Four years from the date of inspection. This periodicity is subject to change by government notification.


20/3/2023
(LKS Rathore)

Director/SE

For Chief Electrical Inspector
to the Govt. of India



Copy to: Chief Engineer (CEI), CEA, 3rd Floor, NRPC Building, Katwaria Sarai, New Delhi.



400KV GIS Line - I (Kharghar - I) BAY 407

Equipment Description	Equipment ID	Phase	SR.NO	MAKE	Qty	Remark
CT	407-CTA	R-Core-1,Core-2,Core-3 Y-Core-1,Core-2,Core-3 B-Core-1,Core-2,Core-3	IN211417-08, IN211417-09, IN211418-05, IN211417-02, IN211417-05, IN211419-14 IN211417-03, IN211417-06, IN211419-18	Hyosung	3	
CT	407-CTB	R-Core-1,Core-2 Y-Core-1,Core-2 B-Core-1,Core-2	IN211417-10, IN211417-07 IN211417-11, IN211417-08 IN211417-12, IN211417-09	Hyosung	3	
CB	407-52-CB	R Y B	20172421-0281 20172421-0281 20172421-0281	Hyosung	3	
Disconnecter Switch	407-83A	R Y B	10172421-0281 10172421-0281 10172421-0281	Hyosung	3	
Earth Switch	407-89AE	R Y B	10172421-0281 10172421-0281 10172421-0281	Hyosung	3	
Disconnecter Switch	407-89B	R Y B	10172421-0281 10172421-0281 10172421-0281	Hyosung	3	
Earth Switch	407-89BF	R Y B	10172421-0281 10172421-0281 10172421-0281	Hyosung	3	
Disconnecter Switch	407-89L	R Y B	10172421-0281 10172421-0281 10172421-0281	Hyosung	3	
Earth Switch	407-89LE	R Y B	10172421-0281 10172421-0281 10172421-0281	Hyosung	3	

राजेश 30/3/2023

Ravi Kumar

सुंकरा बी. आर. राव
वरिष्ठ महाप्रबंधक, पावरग्रिड पडगे
SUNKARA B. R. RAO
SR. GENERAL MANAGER
POWERGRID, PADGHE

400KV GIS LINE - II (Kharghar - II) BAY 410

Equipment Description	Equipment ID	Phase	SR.NO	MAKE	Qty	Remark
CT	410-CTA	R-Core-1,Core-2,Core-3 Y-Core-1,Core-2,Core-3 B-Core-1,Core-2,Core-3	IN211417-25, IN211417-28, IN211418-07 IN211417-26, IN211417-29, IN211418-08 IN211417-27, IN211417-30, IN211418-09	Hyosung	3	
CT	410-CTB	R-Core-1,Core-2 Y-Core-1,Core-2 B-Core-1,Core-2	IN211417-31, IN211417-34 IN211417-32, IN211417-35 IN211417-33, IN211417-36	Hyosung	3	
CB	410-51-CB	R Y B	20172421-0284 20172421-0284 20172421-0284	Hyosung	3	
Disconnecter Switch	410-89A	R Y B	10172421-0284 10172421-0284 10172421-0284	Hyosung	3	
Earth Switch	410-89AE	R Y B	10172421-0284 10172421-0284 10172421-0284	Hyosung	3	
Disconnecter Switch	410-89B	R Y B	10172421-0284 10172421-0284 10172421-0284	Hyosung	3	
Earth Switch	410-89BE	R Y B	10172421-0284 10172421-0284 10172421-0284	Hyosung	3	
Disconnecter Switch	410-89L	R Y B	10172421-0284 10172421-0284 10172421-0284	Hyosung	3	
Earth Switch	410-89LE	R Y B	10172421-0284 10172421-0284 10172421-0284	Hyosung	3	

राजेश 30/3/2023

Ravi Kumar

सुंकरा बी. आर. राव
वरिष्ठ महाप्रबंधक, पावरग्रिड पडगे
SUNKARA B. R. RAO
SR. GENERAL MANAGER
POWERGRID, PADGHE



ग्रिड-इंडिया
GRID-INDIA

ग्रिड कंट्रोलर ऑफ इंडिया लिमिटेड
(भारत सरकार का उद्यम)
GRID CONTROLLER OF INDIA LIMITED
(A Government of India Enterprise)

(Formerly Power System Operation Corporation Limited (PSOCL))

पश्चिम क्षेत्रीय भार प्रेषण केन्द्र / Western Regional Load Despatch Centre

कार्यालय : एफ-3, २म. आर्. ई. सी. रोड, मरोल, अंधेरी (पूर्व), मुंबई - 400093

Office : F-3, M.I.D.C. Area, Marol, Andheri (East), Mumbai - 400093

CIN : U40105DL2009GOC088682, Website : www.wrlco.in, E-mail : wrlco@grid-india.in, Tel: 022 28202890, Fax: 022 28236414, 28202630

प्रमाणपत्र संदर्भ : प.क्षे.भा.प्रे.के./WR/113/ ४८७

दिनांक: 01/11/2023

पारेषण तत्वों एवं बे द्वारा सफल ट्रायल ऑपरेशन (विद्युत भार के बिना) का प्रमाण पत्र

Certificate of successful Trial Operation (without electrical load) of Transmission Element(s)/bay(s)

Reference:

- WRTS-1 Communication (UJD-582) dated 18-03-2023 (Format-I and IA)
- WRLDC Communication to WRTS-1 dated 20-03-2023 (Format-II-Acknowledgement)
- WRTS-1 Communication to WRLDC dated 19-07-2023 (processing related information)
- WRLDC Communication to WRTS-1 dated 20-07-2023 (Format-IV - 598)
- WRTS-1 request for charging & trial operation dated 18-08-2023
- Code from WRLDC to WRTS-1 on 18-08-2023 for charging
- Communication dated 25-08-2023 from WRTS-1 [C1-C4]
- Communication from WRTS-1 dated 30.10.2023 on compliance of protection requirements from WRLDC [Compliance related to TR.ID-194]

Based on the above documents under reference, it is hereby certified that the following Transmission elements/bays of WRTS-1, POWERGRID have successfully undergone trial operation (without electrical load) at 765/400 kV Padghe Substation:

क्रमांक / S.No.	पारेषण संपत्ति का नाम / Name of the Transmission Asset:	ट्रायल ऑपरेशन प्रारम्भ किए जाने का समय एवं तारीख / Date and Time of commencement of trial operation (without electrical load)	ट्रायल ऑपरेशन समाप्ति का समय एवं तारीख / Date and time of completion of trial operation (without electrical load)
1	400kV - Main bay 407 of Padghe-Kharghar Line-I at Padghe SS	18-08-2023 10:01	19-08-2023 10:01
2	400kV - Tie bay 408 of Kharghar-I and ICT-3 at Padghe SS	18-08-2023 10:35	19-08-2023 10:35
3	400kV - Main Bay 409 of ICT-3 at Padghe SS	18-08-2023 10:57	19-08-2023 10:57
4	400kV - Main Bay 410 of Padghe-Kharghar Line-II at Padghe SS	18-08-2023 11:38	19-08-2023 11:38
5	400kV - Tie bay 411 of Kharghar-II and Bus reactor (Future) at Padghe SS	18-08-2023 12:04	19-08-2023 12:04
6	400kV - Main Bay 412 of Bus Reactor (Future) at Padghe SS	18-08-2023 12:32	19-08-2023 12:32

This certificate is being issued in accordance with Reg. 5(2)(b) of CERC (Terms & Conditions of Tariff) Regulations 2019 to certify trial operation (without electrical load) of transmission element. Usage of this certificate for any other purpose is prohibited.

वेल्दी बालाजी
कार्यपालक निदेशक, प.क्षे.भा.प्रे.के

To: कार्यपालक निदेशक, प.क्षे. पारेषण प्रणाली-1, पावरग्रिड, नागपुर

प्रति: 1. सदस्य सचिव, प.क्षे.वि.स., मुंबई

2. कार्यपालक-निदेशक, स.भा.प्रे.के, नई दिल्ली

पंजीकृत कार्यालय : बी-9, प्रथम तल, कुतब इन्स्टीट्यूशनल एरिया, कटवाहिया सराय, नई दिल्ली-110068
Registered Office : E-9, 1st Floor, Qutab Institutional Area, Katwahia Sarai, New Delhi-110068
Website : www.grid-india.in



Certificate as per CERC Tariff Regulations 2019
And
CERC (Indian Electricity Grid Code) (Fourth Amendment) Regulations 2016
(For Inter State Transmission System)

It is to certify that the "02 nos of 400kV Line bays at Padghe (PG) GIS (For termination of Padghe(PG)-Kharghar 400kV D/C Quad Line)" with associated communication system under "Western Region System Strengthening Scheme- XIX (WRSSS-XIX)" meets the following requirements for declaration of Commercial operation:

The Transmission assets conform to the relevant Grid Standard and Grid Code, and are capable of operation to their full capacity with effect from 12:32 Hrs of 19.08.2023.


(K. Sreekant)
Chairman & Managing Director

37. Further, it has been observed that as per the MUML's affidavit dated 21.12.2024, the actual power flow in the associated transmission line commenced w.e.f. 28.9.2024.

38. Therefore, in view of the above facts and taking into consideration the CEA Energization Certificate, the WRLDC 'NO load' Trial Run Certificate, and the CMD Certificate, the COD of the transmission asset has been approved as on 30.8.2023 under Regulation 5(2) of the 2019 Tariff Regulations for the purpose of tariff determination in the instant Petition.

Capital Cost

39. Regulation 19 of the 2019 Tariff Regulations provides as under:

"19 Capital Cost: (1) *The Capital cost of the generating station or the transmission system, as the case may be, as determined by the Commission after prudence check in accordance with these regulations shall form the basis for determination of tariff for existing and new projects.*

(2) *The Capital Cost of a new project shall include the following:*

- (a) The expenditure incurred or projected to be incurred up to the date of commercial operation of the project;*
- (b) Interest during construction and financing charges, on the loans (i) being equal to 70% of the funds deployed, in the event of the actual equity in excess of 30% of the funds deployed, by treating the excess equity as normative loan, or (ii) being equal to the actual amount of loan in the event of the actual equity less than 30% of the funds deployed;*
- (c) Any gain or loss on account of foreign exchange risk variation pertaining to the loan amount availed during the construction period;*
- (d) Interest during construction and incidental expenditure during construction as computed in accordance with these regulations;*
- (e) Capitalised Initial Spares subject to the ceiling rates in accordance with these regulations;*
- (f) Expenditure on account of additional capitalization and de-capitalisation determined in accordance with these regulations;*
- (g) Adjustment of revenue due to sale of infirm power in excess of fuel cost prior to the date of commercial operation as specified under Regulation 7 of these regulations;*
- (h) Adjustment of revenue earned by the transmission licensee by using the Asset-before the date of commercial operation;*
- (i) Capital expenditure on account of ash disposal and utilization including handling and transportation facility;*
- (j) Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal upto the receiving end of the generating station but does not include the transportation cost and any other appurtenant cost paid to the railway.*
- (k) Capital expenditure on account of biomass handling equipment and facilities, for co-firing;*
- (l) Capital expenditure on account of emission control system necessary to meet the revised emission standards and sewage treatment plant;*
- (m) Expenditure on account of fulfilment of any conditions for obtaining environment clearance for the project;*
- (n) Expenditure on account of change in law and force majeure events; and*
- (o) Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries.*

(3) The Capital cost of an existing project shall include the following:

- (a) Capital cost admitted by the Commission prior to 1.4.2019 duly trued up by excluding liability, if any, as on 1.4.2019;*
- (b) Additional capitalization and de-capitalization for the respective year of tariff as determined in accordance with these regulations;*
- (c) Capital expenditure on account of ash disposal and utilization including handling and transportation facility;*
- (d) Capital expenditure on account of ash disposal and utilization including handling and transportation facility;*
- (e) Capital expenditure incurred towards railway infrastructure and its augmentation for transportation of coal up to the receiving end of generating station but does not include the transportation cost and any other appurtenant cost paid to the railway; and*



(f) Capital cost incurred or projected to be incurred by a thermal generating station, on account of implementation of the norms under Perform, Achieve and Trade (PAT) scheme of Government of India shall be considered by the Commission subject to sharing of benefits accrued under the PAT scheme with the beneficiaries.

(4) The capital cost in case of existing or new hydro generating station shall also include:

- (a) cost of approved rehabilitation and resettlement (R&R) plan of the project in conformity with National R&R Policy and R&R package as approved; and
- (b) cost of the developer's 10% contribution towards Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY) and Deendayal Upadhyaya Gram Jyoti Yojana (DDUGJY) project in the affected area.

(5) The following shall be excluded from the capital cost of the existing and new projects:

- (a) The Asset-forming part of the project, but not in use, as declared in the tariff petition;
- (b) De-capitalised Asset-after the date of commercial operation on account of replacement or removal on account of obsolescence or shifting from one project to another project:

Provided that in case replacement of transmission Asset-is recommended by Regional Power Committee, such Asset-shall be decapitalised only after its redeployment;

Provided further that unless shifting of an Asset-from one project to another is of permanent nature, there shall be no de-capitalization of the concerned asset.

- (c) In case of hydro generating stations, any expenditure incurred or committed to be incurred by a project developer for getting the project site allotted by the State Government by following a transparent process;
- (d) Proportionate cost of land of the existing project which is being used for generating power from generating station based on renewable energy; and
- (e) Any grant received from the Central or State Government or any statutory body or authority for the execution of the project which does not carry any liability of repayment."

40. The Petitioner has submitted the Auditor's Certificate and has claimed the capital cost incurred as on the COD and has projected the Additional Capital Expenditure (ACE) to be incurred, with respect to the transmission asset as under:

FR Apportioned Approved Cost	Cost as on COD	Projected ACE			(₹ in lakh) Estimated Completion Cost
		2023-24	2024-25	2025-26	
6082.17	3781.63	911.45	324.49	28.84	5046.41



Cost Overrun

41. The Petitioner has submitted that the total apportioned approved cost as per the Feasibility Report (FR) is ₹6082.17 lakh for the transmission asset. The estimated completion cost is ₹5046.41 lakh for the transmission asset. Thus, there is no cost overrun with regard to the transmission asset.

42. The Petitioner has submitted that there is expected ACE of ₹911.45 lakh in 2023-24, ₹324.49 lakh in 2024-25 and ₹28.84 lakh in 2025-26 for the transmission asset.

43. Further, the Petitioner has submitted the item-wise reasons for the cost variations between the FR apportioned approved cost and the estimated completion cost, and the same are as under:

(₹ in lakh)		
Apportioned Approved Cost (FR) (a)	Estimated Completion Cost (b)	Variation FR. (- decrease, + increase) c = (b – a)
6082.17	5046.41	-1035.76

a) Sub-station (Decrease of ₹1308 lakh)

(i) Preliminary works, land, and Civil works (Increase of ₹20 lakh):

The cost under this heading has increased as per the actual site conditions.

(ii) Sub-station equipment, including initial spares (Decrease of ₹ 13.28 crores):

The variation in cost in the Sub-station equipment's is due to variation in awarded/executed cost received through the competitive bidding. For the procurement, an open competitive bidding route was followed by providing equal opportunity to all eligible firms. The lowest possible market prices for the required product/services were obtained, and the contracts were awarded on the basis of



the lowest evaluated eligible bidder. The best competitive bid prices against the tenders may happen to be lower or higher than the cost estimate, depending upon the prevailing market conditions. Furthermore, regarding the variation in the cost of individual items in Sub-station packages, the packages under the scope of the works comprised a large number of items and were awarded through open competitive bidding. In the said bidding process, bids were received from multiple parties quoting different rates for various BOQ items under the said package. Further, the lowest bidder can be arrived at/evaluated on an overall basis only. Hence, the item-wise unit prices in contracts and their variation over unit rate considered in the FR estimates were beyond the control of the Petitioner.

b) Decrease in IDC (Decrease of ₹210 lakh):

The decrease in the IDC is attributable to variation in the rate of interest considered in the FR v/s actuals, decrease in the overall capital cost with respect to the FR cost and deployment of funds based on the actuals. Further, in the FR, the IDC was calculated assuming that the loans would be available from domestic sources. In the FR, the interest rate on loans has been considered @9.75% of the domestic loans, subject to actuals. The actual IDC accrued up to the COD has been considered in the Auditor's Certificate.

c) Increase in IEDC (Increase of ₹482 lakh):

44. In the IA, 10.75% of the equipment cost and civil works have been considered for the IEDC, whereas, based on the actual expenditure under the subject head, the IEDC has been considered in the Auditor's Certificate. In line with the APTEL's order dated



2.12.2019 in Appeal Nos. 95 of 2018 and 140 of 2018, therefore, allow the entire IEDC claimed under the instant Petition.

45. We have considered the Petitioner's submissions and perused the documents placed on record.

46. After perusal of the documents, it has been observed that as per the MoP OM dated 21.8.2018, the estimated cost of ₹3800 lakh has been considered for both the assets, i.e., **(i)** Part-A: 2 nos. 400 kV line bays at Banaskantha (PG) Pooling Station and **(ii)** Part-B: 2 nos. 400 kV GIS bays at 765/400 Padghe (PG) Sub-station, to be implemented by the Petitioner under the RTM. However, the Petitioner in the IA dated 30.3.2021 has considered the cost of ₹8465.00 lakh for both the aforementioned assets (as per DPR, ₹2383.00 lakh for Part-A and ₹6082.00 lakh for Part-B), i.e., approximately 122.76% higher than the estimated cost as per the MoP OM dated 21.8.2018.

47. Therefore, the Petitioner is hereby directed to submit the justification along with the supporting documents for consideration of the higher estimated cost in the IA dated 30.3.2021, as compared to the estimated cost approved vide MoP OM dated 21.8.2018, to review the same at the time of truing up.

48. However, as the total estimated completion cost of ₹5046.41 lakh is within the FR approved cost of ₹6082.00 lakh, and thus, there is no cost overrun with respect to the instant transmission asset.



Time Overrun

49. The Petitioner has submitted that, as per the IA dated 30.3.2021, the completion schedule for the transmission asset was 29 months from the date of the IA. Hence, the commissioning schedule comes to 30.8.2023, against which the transmission asset has become ready and completed the RLDC trial operation (idle Charging) on 19.8.2023. The details of the proposed COD and the time overrun as submitted by the Petitioner are as under:

Asset Name	Proposed COD	Time Overrun
2 nos. of 400 kV Line bays at Padghe (PG) GIS for termination of Padghe (PG)-Kharghar 400 kV D/C (Quad) line	30.8.2023	Nil

50. We have considered the Petitioner's submissions deliberated under the "Commercial Operation Date (COD)", the SCOD has been considered and allowed as on 31.7.2023 for the transmission asset in accordance with the 31st JCC meeting of the Western region held on 26.3.2021. However, since the COD of the transmission asset has been approved as 30.8.2023 under Regulation 5(2) of the 2019 Tariff Regulations, there is a time overrun of 30 days in the proposed COD of the transmission asset with respect to the SCOD as on 31.7.2023.

51. It has been noticed that in compliance with the RoP of the hearing dated 18.11.2024 and the rejoinder to the reply of MUML, the Petitioner vide affidavit dated 9.12.2024 and 6.1.2025, respectively, has submitted that in the 31st JCC meeting held on 26.3.2021, the SCOD of the bays were finalized as on 31.7.2023. However, the Petitioner has claimed the 'NIL' time overrun and has not submitted any contentions/justifications with respect to the time overrun considering the SCOD as on 31.7.2023.



52. Therefore, in view of the above, the time overrun of 30 days in the proposed COD of the transmission asset is, hereby, not condoned. The liberty is granted to the Petitioner to submit the justification along with the supporting documents with respect to the time overrun, considering the SCOD as on 31.7.2023, to review the same at the time of truing up.

53. The details of the time overrun are as under:

SCOD considered as per the 31 st JCC meeting of the Western Region	COD claimed under Regulation 5(2) of 2019 Tariff Regulations	Time Overrun	Time Overrun Condoned	Time Overrun not Condoned
31.7.2023	30.8.2023	30 days	NIL	30 days

Interest During Construction (IDC) and Incidental Expenditure During Construction (IEDC)

54. The Petitioner has claimed that the IDC of ₹113.90 lakh for the transmission asset, out of which ₹96.36 lakh was discharged up to the COD and ₹17.54 lakh in FY 2023-24.

55. We have considered the Petitioner's submissions. As discussed above in this order, there is a time overrun of 30 days in the commissioning of the transmission asset. Accordingly, the IDC on a cash basis up to the COD has been worked out based on the loan details given in the statement showing the discharge of the IDC and Form-9C for the transmission asset. The IDC claimed and considered as on the COD and summary of discharge of the IDC liability up to the COD and, thereafter, for the purpose of the tariff determination with respect to the transmission asset subject to the revision at the time of truing up is as under:



(₹ in lakh)				
IDC claimed (A)	IDC disallowed due to time over-run (B)	IDC undischarged as on COD (C)	IDC allowed as on COD (D)=(A)-(B)-(C)	IDC Discharged after COD during 2023-24 (E)
113.90	14.53	3.01	96.36	3.01

56. The Petitioner has claimed the IEDC of ₹1091.18 lakh for the transmission asset as per the Auditor's Certificate, which has been discharged up to the COD.

57. MPPMCL and MSEDCL have submitted that the tariff components of related to the commissioning of the transmission asset, i.e., the increase in IEDC amounting to ₹482 lakh, which has exceeded the permissible limit of 10.75%, is unjustified and, accordingly, may be restricted to the permissible limit, after the prudence check.

58. In response to the MPPMCL's and MSEDCL's reply, the Petitioner has submitted that the determination of the capital cost under the RTM must be based on the actuals, subject to the prudence check. In the IA, 10.75% of the equipment cost and 3% of the civil works were considered for the IEDC and contingencies, respectively. However, the IEDC reflected in the Auditor's Certificate is based on the actual expenditure incurred under this head. As a substantive support, Form 12A, which provides a head-wise break-up of the IEDC, has already been submitted as a part of the instant Petition. In this regard, the Petitioner relies on the APTEL's judgment dated 2.12.2019 in Appeal Nos. 95 of 2018 and 140 of 2018. In the said judgment, the APTEL adjudicated a similar issue and upheld the Petitioner's contention that the IEDC cannot be restricted to the percentage specified in the IA and must reflect the actuals, subject to the prudence check. We deem it appropriate to refer to the relevant extract of the judgment dated 2.12.2029 in Appeal Nos. 95 of 2018 and 140 of 2018 as under:



“7.13 In view of the above, we are of the opinion that while carrying out the restriction of the IEDC, CERC is considering hard cost as on COD and not on actual detailed hard cost. This is considered to be against CERC’s own philosophy that the project cost is up to the cut of date and they are looking at investment approval / revised cost estimate wherein the IEDC percentage is on total hard cost. As rightly submitted by the learned counsel for the Appellant that actual IEDC of the project / element has no correlation with hard cost of the project and practice of taking a percentage of hard cost of IEDC is just a rough / approximate estimation for the purpose of providing cost input for approval purposes. As such, restricting the actual IEDC, based on this percentage is neither in terms of Tariff Regulations nor technically correct.”

59. In view of the above, the Respondent’s contention is without merit and is liable to be rejected and hence rejected.

60. We have considered the Petitioner’s, MPPMCL’s and MSEDCL’s submissions and accordingly, the IEDC claimed as per the Auditor’s Certificate, the IEDC considered and discharged up to COD as under:

(₹ in lakh)		
IEDC Claimed	IEDC Disallowed due to time over-run not condoned	IEDC Allowed
1091.18	37.07	1054.11

Initial Spares

61. Regulation 23(d) of the 2019 Tariff Regulations provides that the Initial Spares shall be capitalized as a percentage of the plant and machinery cost up to the cut-off date, subject to the following ceiling norms:

“(d) Transmission System

(i) Transmission line:	1.00%
(ii) Transmission sub-station	
- (Green Field):	4.00%
- (Brown Field):	6.00%
(iii) Series Compensation devices and HVDC Station:	4.00%
(iv) GIS Insulated Sub-station	
- (Green Field):	5.00%
- (Brown Field):	7.00%
(v) Communication System:	3.50%
(vi) Static Synchronous Compensator:	6.00%



62. The Petitioner has claimed the Initial Spares as under:

(₹ in lakh)

Particulars	Plant & Machinery cost (A)	Initial Spares Claimed (B)	Ceiling Limit (in %) (C)	Initial Spares Worked out	Excess Spares
				$D = [(A-B)*C / (100-C)]$	
Sub-station (GIS-Brown field)	3821.34	188.98	7	273.40	Nil

63. The Petitioner has further submitted that the Initial Spares claimed are within the ceiling limit as specified in the 2019 Tariff Regulations. The Petitioner has also submitted the Initial Spares discharge details through the RoPs for the hearing dated 18.11.2024, vide affidavit dated 9.12.2024, and the same areas under:

(₹ in lakh)

Particulars	Total spares Claimed	Expenditure on initial Spares Up to COD and included in the auditor certificate up to COD	Expenditure on initial spares in 2023-24 (ACE)
Sub-station (GIS-Brown field)	188.98	39.40	149.58

64. We have considered the Petitioner's submissions. It has been observed that the Initial Spares claimed by the Petitioner for the transmission asset are within the ceiling limit.

65. Therefore, in view of the above and as per Regulation 23(d) of the 2019 Tariff Regulations, the Initial Spares are being allowed subject to the truing up. The details of the Initial Spares allowed are as under:



(₹ in lakh)					
Plant and Machinery cost for calculation of Initial Spares	Initial Spares claimed	Norm as per Regulations (in %)	Initial Spares allowable	Excess Initial Spares	Initial Spares allowed
(A)	(B)	(C)	$(D)=(A-B)/(100-C)*C$	(E)	(F)=(B-E)
3821.34	188.98	7	273.40	Nil	188.98

Capital Cost Allowed as on the COD

66. Accordingly, the capital cost allowed with respect to the transmission assets as on the COD, excluding the IDC and IEDC disallowed on account of the non-condonation of the time overrun, is as under:

(₹ in lakh)				
Capital Cost claimed till COD	Less: IDC disallowed due to time over-run	Less: IEDC disallowed due to time over-run	Less: Undischarged IDC as on COD	Capital Cost as on COD
3781.63	14.53	37.07	3.01	3727.02

Additional Capital Expenditure (“ACE”)

67. Regulation 24 and Regulation 25 of the 2019 Tariff Regulations provide as follows:

“24. Additional Capitalization within the original scope and upto the cut-off date

(1) The additional capital expenditure in respect of a new project or an existing project incurred or projected to be incurred, on the following counts within the original scope of work, after the date of commercial operation and up to the cut-off date may be admitted by the Commission, subject to prudence check:

- Un discharged liabilities recognized to be payable at a future date;*
- Works deferred for execution;*
- Procurement of initial capital spares within the original scope of work, in accordance with the provisions of Regulation 23 of these regulations;*
- Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority or order or decree of any court of law; and*
- Change in law or compliance of any existing law: and*
- Force Majeure events:*

Provided that in case of any replacement of the assets, the additional capitalization shall be worked out after adjusting the gross fixed assets and cumulative depreciation of the assets replaced on account of de-capitalization.

(2) The generating company or the transmission licensee, as the case may be shall submit the details of works asset wise/work wise included in the original scope of work



along with estimates of expenditure, liabilities recognized to be payable at a future date and the works deferred for execution.

25. Additional Capitalisation within the original scope and after the cut-off date:

(1) The ACE incurred or projected to be incurred in respect of an existing project or a new project on the following counts within the original scope of work and after the cutoff date may be admitted by the Commission, subject to prudence check:

- a. Liabilities to meet award of arbitration or for compliance of the directions or order of any statutory authority, or order or decree of any court of law;
- b. Change in law or compliance of any existing law;
- c. Deferred works relating to ash pond or ash handling system in the original scope of work;
- d. Liability for works executed prior to the cut-off date;
- e. Force Majeure events;
- f. Liability for works admitted by the Commission after the cut-off date to the extent of discharge of such liabilities by actual payments; and g) Raising of ash dyke as a part of ash disposal system.

(2) In case of replacement of assets deployed under the original scope of the existing project after cut-off date, the additional capitalization may be admitted by the Commission, after making necessary adjustments in the gross fixed assets and the cumulative depreciation, subject to prudence check on the following grounds:

- a. The useful life of the assets is not commensurate with the useful life of the project and such assets have been fully depreciated in accordance with the provisions of these regulations.
- b. The replacement of the asset or equipment is necessary on account of change in law or Force Majeure conditions;
- c. The replacement of such asset or equipment is necessary on account of obsolescence of technology; and
- d. The replacement of such asset or equipment has otherwise been allowed by the Commission.”

68. The Petitioner has claimed the ACE against the transmission assets as under:

Projected ACE		
2023-24	2024-25	2025-26
911.45	324.49	28.84

69. The Petitioner has also submitted that the ACE incurred/projected to be incurred in the contextual assets is mainly on account of the balance/ retention Payments.



70. The Petitioner vide affidavit dated 12.9.2024 has submitted the Liability Flow Statement as under:

(₹ in lakh)

Head Wise/Party Wise	Particulars	Outstanding Liability as on COD	Discharge		Additional Liability Recognized	
			2023- 24	Total (2019-24)	2023-24	Total (2019-24)
M/s Hyosung T&D India Pvt Ltd (Supply)	Sub- Station	343.81	212.32	212.32	191.68	191.68
	IT	4.02	2.25	2.25	2.9	2.9
M/s Hyosung & D India Pvt Ltd (service)	Sub- Station	283.65	247.85	247.85	239.97	239.97
	IT	3.30	2.90	2.90	3.73	3.73
	PLCC	9.02	7.85	7.85	-	-
Total		643.80	473.17	473.17	438.28	438.28

(₹ in lakh)

Head Wise/Party Wise	Particulars	Outstanding Liability as on 1.4.2024	Discharge			Additional Liability Recognized		
			2024- 25	202 5-26	Total (2025- 2029)	2024- 25	2025- 26	Total (2025- 2029)
M/s Hyosung & D India Pvt Ltd (supply)	Sub-Station	131.49	123.72	7.77	131.49	117.92	7.33	125.25
	IT	1.77	1.68	0.09	1.77	2.16	0.10	2.26
M/s Hyosung & D India Pvt Ltd (service)	Sub-Station	35.80	34.10	1.70	35.80	33.02	1.65	34.67
	IT	0.40	0.36	0.04	0.40	0.47	0.05	0.52
	PLCC	1.17	1.06	0.11	1.17	0.00	-	-
Misc Infrastructure works	Civil	-	-	-	-	10.00	10.00	20.00
Total		170.63	160.92	9.71	170.63	163.56	19.13	182.70

71. The Petitioner has submitted that the admissibility of the ACE after the COD may be dealt with in accordance with Regulation 24 of the 2019 Tariff Regulations.

72. It has been observed that the Petitioner has also claimed the ACE in the 2024-25 and 2025-26 tariff period for the transmission asset, which shall be dealt with the 2024-29 tariff period as per the applicable tariff regulations.



73. We have considered the Petitioner's submissions and have observed that the ACE claimed is on account of the balance and retention payments and is, therefore, allowed under Regulation 24(1)(a) and Regulation 24(1)(b) of the 2019 Tariff Regulations. The ACE allowed for the 2019-24 tariff period for the transmission asset is as under:

		(₹ in lakh)
Particulars	Regulations	ACE allowed (2023-24)
Balance and Retention Payments other than IDC	Regulation 24(1)(a) of the 2019 Tariff Regulations	473.17
Addition in Gross Block	Regulation 24(1)(b) of the 2019 Tariff Regulations	438.28
IDC Discharged during 2023-24		3.01
Total		914.46

74. Accordingly, the capital cost allowed as on 31.3.2024 is as under:

			(₹ in lakh)
Capital Cost allowed as on COD	ACE Allowed	Capital Cost as on 31.3.2024	
	2023-24		
3727.02	914.46		4641.48

Debt-Equity Ratio

75. Regulation 18 of the 2019 Tariff Regulations provides as under:

“18. Debt-Equity Ratio: (1) For new projects, the debt-equity ratio of 70:30 as on date of commercial operation shall be considered. If the equity actually deployed is more than 30% of the capital cost, equity in excess of 30% shall be treated as normative loan:

Provided that:

- where equity actually deployed is less than 30% of the capital cost, actual equity shall be considered for determination of tariff;
- the equity invested in foreign currency shall be designated in Indian rupees on the date of each investment;
- any grant obtained for the execution of the project shall not be considered as a part of capital structure for the purpose of debt: equity ratio.

Explanation-The premium, if any, raised by the generating company or the transmission licensee, as the case may be, while issuing share capital and investment of internal resources created out of its free reserve, for the funding of the project, shall be reckoned as paid up capital for the purpose of computing return on equity, only if such premium amount and internal resources are actually



utilised for meeting the capital expenditure of the generating station or the transmission system.

(2) The generating company or the transmission licensee, as the case may be, shall submit the resolution of the Board of the company or approval of the competent authority in other cases regarding infusion of funds from internal resources in support of the utilization made or proposed to be made to meet the capital expenditure of the generating station or the transmission system including communication system, as the case may be.

(3) In case of the generating station and the transmission system including communication system declared under commercial operation prior to 1.4.2019, debt: equity ratio allowed by the Commission for determination of tariff for the period ending 31.3.2019 shall be considered:

Provided that in case of a generating station or a transmission system including communication, system which has completed its useful life as on or after 1.4.2019, if the equity actually deployed as on 1.4.2019 is more than 30% of the capital cost, equity in excess of 30% shall not be taken into account for tariff computation;

Provided further that in case of projects owned by Damodar Valley Corporation, the debt: equity ratio shall be governed as per sub-clause (ii) of clause (2) of Regulation 72 of these regulations.

(4) In case of the generating station and the transmission system including communication system declared under commercial operation prior to 1.4.2019, but where debt: equity ratio has not been determined by the Commission for determination of tariff for the period ending 31.3.2019, the Commission shall approve the debt: equity ratio in accordance with clause (1) of this Regulation.

(5) Any expenditure incurred or projected to be incurred on or after 1.4.2019 as may be admitted by the Commission as additional capital expenditure for determination of tariff, and renovation and modernisation expenditure for life extension shall be serviced in the manner specified in clause (1) of this Regulation.

(6) Any expenditure incurred for the emission control system during the tariff period as may be admitted by the Commission as additional capital expenditure for determination of supplementary tariff, shall be serviced in the manner specified in clause (1) of this Regulation.”

76. The debt-equity ratio considered for the purpose of computation of the tariff for the 2019-24 tariff period for the transmission assets is as under:

Funding	Capital Cost as on COD (₹ in lakh)	(in %)	ACE during 2019-24 (₹ in lakh)	(in %)	Capital Cost as on 31.3.2024 (₹ in lakh)	(in %)
Debt	2608.91	70	640.12	70	3249.03	70
Equity	1118.11	30	274.34	30	1392.44	30
Total	3727.02	100	914.46	100	4641.48	100



Depreciation

77. Regulation 33 of the 2019 Tariff Regulations provides as under:

“33. Depreciation: (1) Depreciation shall be computed from the date of commercial operation of a generating station or unit thereof or a transmission system or element thereof including communication system. In case of the tariff of all the units of a generating station or all elements of a transmission system including communication system for which a single tariff needs to be determined, the depreciation shall be computed from the effective date of commercial operation of the generating station or the transmission system taking into consideration the depreciation of individual units:

Provided that effective date of commercial operation shall be worked out by considering the actual date of commercial operation and installed capacity of all the units of the generating station or capital cost of all elements of the transmission system, for which single tariff needs to be determined.

(2) The value base for the purpose of depreciation shall be the capital cost of the Asset admitted by the Commission. In case of multiple units of a generating station or multiple elements of a transmission system, weighted average life for the generating station of the transmission system shall be applied. Depreciation shall be chargeable from the first year of commercial operation. In case of commercial operation of the Asset-for part of the year, depreciation shall be charged on pro rata basis.

(3) The salvage value of the asset shall be considered as 10% and depreciation shall be allowed up to maximum of 90% of the capital cost of the asset:

Provided that the salvage value for IT equipment and software shall be considered as NIL and 100% value of the assets shall be considered depreciable;

Provided further that in case of hydro generating stations, the salvage value shall be as provided in the agreement, if any, signed by the developers with the State Government for development of the generating station

Provided also that the capital cost of the assets of the hydro generating station for the purpose of computation of depreciated value shall correspond to the percentage of sale of electricity under long-term power purchase agreement at regulated tariff:

Provided also that any depreciation disallowed on account of lower availability of the generating station or unit or transmission system as the case may be, shall not be allowed to be recovered at a later stage during the useful life or the extended life.

(4) Land other than the land held under lease and the land for reservoir in case of hydro generating station shall not be a depreciable asset and its cost shall be excluded from the capital cost while computing depreciable value of the asset.

(5) Depreciation shall be calculated annually based on Straight Line Method and at rates specified in Appendix-I to these regulations for the Asset-of the generating station and transmission system:



Provided that the remaining depreciable value as on 31st March of the year closing after a period of 12 years from the effective date of commercial operation of the station shall be spread over the balance useful life of the asset

(6) In case of the existing projects, the balance depreciable value as on 1.4.2019 shall be worked out by deducting the cumulative depreciation as admitted by the Commission upto 31.3.2019 from the gross depreciable value of the assets.

(7) The generating company or the transmission licensee, as the case may be, shall submit the details of proposed capital expenditure five years before the completion of useful life of the project along with justification and proposed life extension. The Commission based on prudence check of such submissions shall approve the depreciation on capital expenditure.

(8) In case of de-capitalization of assets in respect of generating station or unit thereof or transmission system or element thereof, the cumulative depreciation shall be adjusted by taking into account the depreciation recovered in tariff by the de-capitalized asset during its useful services.

(9) Where the emission control system is implemented within the original scope of the generating station and the date of commercial operation of the generating station or unit thereof and the date of operation of the emission control system are the same, depreciation of the generating station or unit thereof including the emission control system shall be computed in accordance with Clauses (1) to (8) of this Regulation.

(10) Depreciation of the emission control system of an existing or a new generating station or unit thereof where the date of operation of the emission control system is subsequent to the date of commercial operation of the generating station or unit thereof, shall be computed annually from the date of operation of such emission control system based on straight line method, with salvage value of 10%, over a period of

- a) twenty-five years, in case the generating station or unit thereof is in operation for fifteen years or less as on the date of operation of the emission control system; or*
- b) balance useful life of the generating station or unit thereof plus fifteen years, in case the generating station or unit thereof is in operation for more than fifteen years as on the date of operation of the emission control system; or*
- c) ten years or a period mutually agreed by the generating company and the beneficiaries, whichever is higher, in case the generating station or unit thereof has completed its useful life."*

78. The depreciation has been worked out considering the admitted capital expenditure as on the COD and, thereafter, up to 31.3.2024. The Weighted Average Rate of Depreciation (WAROD) placed at '**Annexure-I**' has been worked out for the transmission asset as per the rates of depreciation specified in the 2019 Tariff



Regulations. Depreciation allowed with respect to the transmission asset for the 2019-24 tariff period are as under:

		(₹ in lakh)
	Particulars	2023-24 (pro rata for 215 days)
A	Opening Gross Block	3727.02
B	Addition during the year 2019-24 due to projected ACE	914.46
C	Closing Gross Block (A+B)	4641.48
D	Average Gross Block (A+C)/2	4184.25
E	Average Gross Block (90% depreciable assets)	4135.92
F	Average Gross Block (100% depreciable assets)	48.32
G	Depreciable value (excluding IT equipment and software) (E*90%)	3722.33
H	Depreciable value of IT equipment and software (F*100%)	48.32
I	Total Depreciable Value (G+H)	3770.65
J	Weighted average rate of Depreciation (WAROD) (in %)	5.42
K	Lapsed useful life at the beginning of the year (Year)	0
L	Balance useful life at the beginning of the year (Year)	25
M	Depreciation during the year (D*J)	133.18
N	Cumulative Depreciation at the end of the year	133.18
O	Remaining Aggregate Depreciable Value at the end of the year(I-N)	3637.48

Interest on Loan ("IoL")

79. Regulation 32 of the 2019 Tariff Regulations provides as follows:

"32. Interest on loan capital: (1) The loans arrived at in the manner indicated in Regulation 18 of these regulations shall be considered as gross normative loan for calculation of interest on loan.

(2) The normative loan outstanding as on 1.4.2019 shall be worked out by deducting the cumulative repayment as admitted by the Commission up to 31.3.2019 from the gross normative loan.

(3) The repayment for each of the year of the tariff period 2019-24 shall be deemed to be equal to the depreciation allowed for the corresponding year/period. In case of decapitalization of asset, the repayment shall be adjusted by taking into account cumulative repayment on a pro rata basis and the adjustment should not exceed cumulative depreciation recovered upto the date of de-capitalisation of such asset.

(4) Notwithstanding any moratorium period availed by the generating company or the transmission licensee, as the case may be, the repayment of loan shall be considered from the first year of commercial operation of the project and shall be equal to the depreciation allowed for the year or part of the year.

(5) The rate of interest shall be the weighted average rate of interest calculated on the basis of the actual loan portfolio after providing appropriate accounting adjustment for interest capitalized:



Provided that if there is no actual loan for a particular year but normative loan is still outstanding, the last available weighted average rate of interest shall be considered;

Provided further that if the generating station or the transmission system, as the case may be, does not have actual loan, then the weighted average rate of interest of the generating company or the transmission licensee as a whole shall be considered.

(5a) The rate of interest on loan for installation of emission control system shall be the weighted average rate of interest of actual loan portfolio of the emission control system or in the absence of actual loan portfolio, the weighted average rate of interest of the generating company as a whole shall be considered.

(6) The interest on loan shall be calculated on the normative average loan of the year by applying the weighted average rate of interest.

(7) The changes to the terms and conditions of the loans shall be reflected from the date of such re-financing”.

80. The Weighted Average Rate of Interest (WAROI) on loans has been considered as claimed by the Petitioner. The Petitioner has prayed that the change in interest rate due to the floating rate of interest applicable, if any, during the 2019-24 tariff period will be adjusted. Accordingly, the floating rate of interest, if any, shall be considered at the time of truing up.

81. Therefore, the IoL has been worked out in accordance with Regulation 32 of the 2019 Tariff Regulations as under:

(₹ in lakh)		
	Particulars	2023-24 (pro rata for 215 days)
A	Gross Normative Loan	2608.91
B	Cumulative Repayments up to Previous Year	0.00
C	Net Loan-Opening (A-B)	2608.91
D	Addition due to ACE	640.12
E	Repayment during the year	133.18
F	Net Loan-Closing (C+D-E)	3115.86
G	Average Loan (C+F)/2	2862.38
H	Weighted Average Rate of Interest on Loan (in %)	8.0137
I	Interest on Loan (G*H)	134.75



Return on Equity ("RoE")

82. Regulation 30 and Regulation 31 of the 2019 Tariff Regulations provide as under:

"30. Return on Equity: (1) Return on equity shall be computed in rupee terms, on the equity base determined in accordance with Regulation 18 of these regulations.

(2) Return on equity shall be computed at the base rate of 15.50% for thermal generating station, transmission system including communication system and run-of river hydro generating station, and at the base rate of 16.50% for the storage type hydro generating stations including pumped storage hydro generating stations and run-of-river generating station with pondage:

Provided that return on equity in respect of Additional Capitalization after cutoff date beyond the original scope excluding Additional Capitalization due to Change in Law, shall be computed at the weighted average rate of interest on actual loan portfolio of the generating station or the transmission system or in the absence of actual loan portfolio of the generating station or the transmission system, the weighted average rate of interest of the generating company or the transmission licensee, as the case may be, as a whole shall be considered, subject to ceiling of 14%.

Provided further that:

- i. In case of a new project, the rate of return on equity shall be reduced by 1.00% for such period as may be decided by the Commission, if the generating station or transmission system is found to be declared under commercial operation without commissioning of any of the Restricted Governor Mode Operation (RGMO) or Free Governor Mode Operation (FGMO), data telemetry, communication system up to load dispatch centre or protection system based on the report submitted by the respective RLDC;*
- ii. in case of existing generating station, as and when any of the requirements under (i) above of this Regulation are found lacking based on the report submitted by the concerned RLDC, rate of return on equity shall be reduced by 1.00% for the period for which the deficiency continues;*
- iii. in case of a thermal generating station, with effect from 1.4.2020:*
 - a) rate of return on equity shall be reduced by 0.25% in case of failure to achieve the ramp rate of 1% per minute;*
 - b) an additional rate of return on equity of 0.25% shall be allowed for every incremental ramp rate of 1% per minute achieved over and above the ramp rate of 1% per minute, subject to ceiling of additional rate of return on equity of 1.00%;*

Provided that the detailed guidelines in this regard shall be issued by National Load Dispatch Centre by 30.6.2019.

(3) The return on equity in respect of additional capitalization on account of emission control system shall be computed at the base rate of one year marginal cost of lending rate (MCLR) of the State Bank of India as on 1st April of the year in which the date of operation (ODe) occurs plus 350 basis point, subject to ceiling of 14%;



31. Tax on Return on Equity:(1) The base rate of return on equity as allowed by the Commission under Regulation 30 of these regulations shall be grossed up with the effective tax rate of the respective financial year. For this purpose, the effective tax rate shall be considered on the basis of actual tax paid in respect of the financial year in line with the provisions of the relevant Finance Acts by the concerned generating company or the transmission licensee, as the case may be. The actual tax paid on income from other businesses including deferred tax liability (i.e. income from business other than business of generation or transmission, as the case may be) shall be excluded for the calculation of effective tax rate.

(2) Rate of return on equity shall be rounded off to three decimal places and shall be computed as per the formula given below:

$$\text{Rate of pre-tax return on equity} = \text{Base rate} / (1-t)$$

Where “t” is the effective tax rate in accordance with clause (1) of this Regulation and shall be calculated at the beginning of every financial year based on the estimated profit and tax to be paid estimated in line with the provisions of the relevant Finance Act applicable for that financial year to the company on pro-rata basis by excluding the income of non-generation or non-transmission business, as the case may be, and the corresponding tax thereon. In case of generating company or transmission licensee paying Minimum Alternate Tax (MAT), “t” shall be considered as MAT rate including surcharge and cess.

Illustration-

(i) In case of a generating company or a transmission licensee paying Minimum Alternate Tax (MAT) @ 21.55% including surcharge and cess:

$$\text{Rate of return on equity} = 15.50/(1-0.2155) = 19.758\%$$

(ii) In case of a generating company or a transmission licensee paying normal corporate tax including surcharge and cess:

(a) Estimated Gross Income from generation or transmission business for FY 2019-20 is Rs 1,000 crore;

(b) Estimated Advance Tax for the year on above is Rs 240 crore;

(c) Effective Tax Rate for the year 2019-20 = Rs 240 Crore/Rs 1000 Crore = 24%;

(d) Rate of return on equity = $15.50 / (1-0.24) = 20.395\%$.

(3) The generating company or the transmission licensee, as the case may be, shall true up the grossed up rate of return on equity at the end of every financial year based on actual tax paid together with any additional tax demand including interest thereon, duly adjusted for any refund of tax including interest received from the income tax authorities pertaining to the tariff period 2019-24 on actual gross income of any financial year. However, penalty, if any, arising on account of delay in deposit or short deposit of tax amount shall not be claimed by the generating company or the transmission licensee, as the case may be. Any under-recovery or over-recovery of grossed up rate on return on equity after truing up, shall be recovered or refunded to beneficiaries or the long term customers, as the case may be, on year to year basis.”



83. We have considered the Petitioner's submissions. The Petitioner has submitted that the MAT rate is applicable to it, and the MAT rate applicable in the 2019-24 period has been considered for the purpose of the RoE, which shall be trued-up with the actual tax rate in accordance with Regulation 31(3) of the 2019 Tariff Regulations. The RoE allowed with respect to the transmission assets are as under:

(₹ in lakh)		
	Particulars	2023-24 (pro rata for 215 days)
A	Opening Equity	1118.11
B	Addition due to ACE	274.34
C	Closing Equity (A+B)	1392.44
D	Average Equity (A+C)/2	1255.27
E	Return on Equity (Base Rate) (in %)	15.50
F	Tax Rate applicable (in %)	17.472
G	Rate of Return on Equity (Pre-tax) (in %)	18.782
H	Return on Equity (Pre-tax) (D*G)	138.49

Operation & Maintenance Expenses ("O&M Expenses")

84. The Petitioner has claimed the O&M Expenses for the transmission asset as under:

(₹ in lakh)	
Particulars	2023-24
O&M Expenses	30.35

85. Regulation 35(3)(a) of the 2019 Tariff Regulations provides as under:

"35 (3) Transmission system: (a) The following normative operation and maintenance expenses shall be admissible for the combined transmission system:

Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Norms for sub-station Bays (₹ Lakh per bay)					
765 kV	45.01	46.60	48.23	49.93	51.68
400 kV	32.15	33.28	34.45	35.66	36.91
220 kV	22.51	23.30	24.12	24.96	25.84
132 kV and below	16.08	16.64	17.23	17.83	18.46
Norms for Transformers (₹ Lakh per MVA)					
765 kV	0.491	0.508	0.526	0.545	0.564
400 kV	0.358	0.371	0.384	0.398	0.411
220 kV	0.245	0.254	0.263	0.272	0.282
132 kV and below	0.245	0.254	0.263	0.272	0.282



Particulars	2019-20	2020-21	2021-22	2022-23	2023-24
Norms for AC and HVDC lines (₹ Lakh per km)					
Single Circuit (Bundled Conductor with six or more sub-conductors)	0.881	0.912	0.944	0.977	1.011
Single Circuit (Bundled conductor with four sub-conductors)	0.755	0.781	0.809	0.837	0.867
Single Circuit (Twin & Triple Conductor)	0.503	0.521	0.539	0.558	0.578
Single Circuit (Single Conductor)	0.252	0.26	0.27	0.279	0.289
Double Circuit (Bundled conductor with four or more sub-conductors)	1.322	1.368	1.416	1.466	1.517
Double Circuit (Twin & Triple Conductor)	0.881	0.912	0.944	0.977	1.011
Double Circuit (Single Conductor)	0.377	0.391	0.404	0.419	0.433
Multi Circuit (Bundled Conductor with four or more sub-conductor)	2.319	2.401	2.485	2.572	2.662
Multi Circuit (Twin & Triple Conductor)	1.544	1.598	1.654	1.713	1.773
Norms for HVDC stations					
HVDC Back-to-Back stations (Rs Lakh per 500 MW) (Except Gazuwaka BTB)	834	864	894	925	958
Gazuwaka HVDC Back-to-Back station (₹ Lakh per 500 MW)	1666	1725	1785	1848	1913
500 kV Rihand-Dadri HVDC bipole scheme (Rs Lakh) (1500 MW)	2252	2331	2413	2498	2586
±500 kV Talcher- Kolar HVDC bipole scheme (Rs Lakh) (2000 MW)	2468	2555	2645	2738	2834
±500 kV Bhiwadi-Balia HVDC bipole scheme (Rs Lakh) (2500 MW)	1696	1756	1817	1881	1947
±800 kV, Bishwanath-Agra HVDC bipole scheme (Rs Lakh) (3000 MW)	2563	2653	2746	2842	2942

Provided that the O&M expenses for the GIS bays shall be allowed as worked out by multiplying 0.70 of the O&M expenses of the normative O&M expenses for bays;

Provided further that:

- the operation and maintenance expenses for new HVDC bi-pole schemes commissioned after 1.4.2019 for a particular year shall be allowed pro-rata on the basis of normative rate of operation and maintenance expenses of similar HVDC bi-pole scheme for the corresponding year of the tariff period;
- the O&M expenses norms for HVDC bi-pole line shall be considered as Double Circuit quad AC line;
- the O&M expenses of ±500 kV Mundra-Mohindergarh HVDC bipole scheme (2000 MW) shall be allowed as worked out by multiplying 0.80 of the normative O&M expenses for ±500 kV Talchar-Kolar HVDC bi-pole scheme (2000 MW);



- iv. the O&M expenses of ± 800 kV Champa-Kurukshetra HVDC bi-pole scheme (3000 MW) shall be on the basis of the normative O&M expenses for ± 800 kV, Bishwanath-Agra HVDC bi-pole scheme;
- v. the O&M expenses of ± 800 kV, Alipurduar-Agra HVDC bi-pole scheme (3000 MW) shall be allowed as worked out by multiplying 0.80 of the normative O&M expenses for ± 800 kV, Bishwanath-Agra HVDC bi-pole scheme; and
- vi. the O&M expenses of Static Synchronous Compensator and Static Var Compensator shall be worked at 1.5% of original project cost as on commercial operation which shall be escalated at the rate of 3.51% to work out the O&M expenses during the tariff period. The O&M expenses of Static Synchronous Compensator and Static Var Compensator, if required, may be reviewed after three years

(b) The total allowable operation and maintenance expenses for the transmission system shall be calculated by multiplying the number of sub-station bays, transformer capacity of the transformer (in MVA) and km of line length with the applicable norms for the operation and maintenance expenses per bay, per MVA and per km respectively.

(c) The Security Expenses and Capital Spares for transmission system shall be allowed separately after prudence check:

Provided that the transmission licensee shall submit the assessment of the security requirement and estimated security expenses, the details of year-wise actual capital spares consumed at the time of truing up with appropriate justification."

86. The O&M Expenses are approved for the transmission asset in accordance with Regulation 35(3)(a) of the 2019 Tariff Regulations as under:

(₹ in lakh)	
Particulars	2023-24 (pro rata for 215 days)
Sub-station: 2 nos. 400 kV line Bays (GIS)	
Norms as per Regulations (₹ per Bay)	25.837*
No. of Units	2
O&M charges	30.35

***O&M Expenses for the GIS bays shall be allowed as worked out by multiplying 0.70 of the O&M Expenses of the normative O&M Expenses for bays.**

Interest on Working Capital ("IWC")

87. Regulation 34(1)(c), Regulation 34(3), Regulation 34(4) and Regulation 3(7) of the 2019 Tariff Regulations specify as under:

"34. Interest on Working Capital: (1) The working capital shall cover:

(c) For Hydro Generating Station (including Pumped Storage Hydro Generating Station) and Transmission System:

- (i) Receivables equivalent to 45 days of annual fixed cost;



- (ii) Maintenance spares @ 15% of operation and maintenance expenses including security expenses; and
- (iii) Operation and maintenance expenses, including security expenses for one month.

(3) Rate of interest on working capital shall be on normative basis and shall be considered as the bank rate as on 1.4.2019 or as on 1st April of the year during the tariff period 2019-24 in which the generating station or a unit thereof or the transmission system including communication system or element thereof, as the case may be, is declared under commercial operation, whichever is later:

Provided that in case of truing-up, the rate of interest on working capital shall be considered at bank rate as on 1st April of each of the financial year during the tariff period 2019-24.

(4) Interest on working capital shall be payable on normative basis notwithstanding that the generating company or the transmission licensee has not taken loan for working capital from any outside agency.”

“3. Definitions. - In these regulations, unless the context otherwise requires:-

(7) **‘Bank Rate’** means the one year marginal cost of lending rate (MCLR) of the State Bank of India issued from time to time plus 350 basis points;”

88. The Petitioner has considered the rate of IWC as 12.00% as on 1.4.2023. The IWC has been worked out in accordance with Regulation 34 of the 2019 Tariff Regulations. The Rate of Interest (RoI) is considered as 12.00% (SBI 1-year MCLR applicable as on 1.4.2023 of 8.50% plus 350 basis points) for the FY 2023-24. The components of the working capital and interest allowed thereon are as under:

(₹ in lakh)	
Particulars	2023-24 (pro rata for 215 days)
Working Capital for O&M Expenses (O&M Expenses for one month)	4.31
Working Capital for Maintenance Spares (15% of O&M Expenses)	7.75
Working Capital for Receivables (Equivalent to 45 days of annual fixed cost /annual transmission charges)	92.97
Total Working Capital	105.02
Rate of Interest for working capital (in %)	12.00
Interest on working capital	7.40

Annual Fixed Charges for 2019-24 Tariff Period

89. The transmission charges allowed for the transmission asset for the 2019-24 tariff period are as under:



(₹ in lakh)	
Particulars	2023-24 (pro rata for 215 days)
Depreciation	133.18
Interest on Loan	134.75
Return on Equity	138.49
O&M Expenses	30.35
Interest on Working Capital	7.40
Total	444.17

Filing Fee and Publication Expenses

90. The Petitioner has sought reimbursement of the fee paid by it for filing the instant petition and the publication expenses. The Petitioner shall be entitled to reimbursement of the filing fees and publication expenses in connection with the present Petition, directly from the beneficiaries on a pro-rata basis in accordance with Regulation 70(1) of the 2019 Tariff Regulations.

Licence Fee and RLDC Fees and Charges

91. The Petitioner shall be entitled to reimbursement of licence fees in accordance with Regulation 70(4) of the 2019 Tariff Regulations for the 2019-24 tariff period and also for the recovery of the RLDC fee and charges in accordance with Regulations 70(3) of the 2019 Tariff Regulations for the 2019-24 tariff period.

Goods and Services Tax

92. The Petitioner has submitted that if the GST is levied at any rate and at any point of time in future on charges of the transmission of electricity, the same will be borne and additionally paid by the Respondent(s) to the Petitioner, and the same will be charged and billed separately by the Petitioner. Further additional taxes, if any, are to be paid by



the Petitioner on account of demand from Government/Statutory Authorities, and the same may be allowed to be recovered from the beneficiaries.

93. MPPMCL and MSEDCL have submitted that the transmission lines are exempted from the implication of GST and related taxes with effect from 1.7.2017. Therefore, the Petitioner's prayer is premature, and the same may not be allowed.

94. In response, the Petitioner has reiterated its submissions.

95. We have considered the Petitioner's, MPPMCL's, and MSEDCL's submissions. Since the GST is not levied on the transmission service at present, we are of the view that the Petitioner's prayer has been considered as premature.

Security Expenses

96. The Petitioner has submitted that security expenses with respect to the transmission asset are not claimed in the instant petition, and it would file a separate Petition for claiming the overall security expenses and the consequential IWC.

97. We have considered the above Petitioner's submissions. The Petitioner has claimed the consolidated security expenses for all the transmission assets owned by it on a projected basis for the 2019-24 tariff period on the basis of actual security expenses incurred in the 2018-19 tariff period in Petition No. 260/MP/2020. The said Petition has already been disposed of by the Commission vide order dated 3.8.2021. Therefore, the Petitioner's prayer in the instant Petition for allowing it to file a separate Petition for claiming the overall security expenses and the consequential IWC has become infructuous.



Capital Spares

98. The Petitioner has sought reimbursement of capital spares at the end of the tariff period. The Petitioner's claim, if any, shall be dealt with in accordance with the provisions of the 2019 Tariff Regulations.

Sharing of Transmission Charges

99. The Petitioner has prayed that the transmission charges for the 2019-24 tariff period may be recovered on a monthly basis in accordance with Regulation 57 of the 2019 Tariff Regulations and the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) Regulations, 2020, as amended from time to time.

100. MPPMCL and MSEDCL, in their reply have submitted that the absence of established power flow confirms that the project covered under the instant Petition was not operational, evidently the transmission service was not provided and the project was not available for use by the beneficiaries, till 31.3.2024 of the MPPMCL and till September 2024 of MSEDCL. MPPMCL has relied upon the judgment of the Hon'ble Supreme Court's judgment dated 3.3.2016 in the case of "*PGCIL vs. PSPCL & Ors., reported as (2016) 4 SCC 797*", which upholds the principle that the operational readiness of the transmission line, evidenced by actual power flow, is a prerequisite for imposing the tariff liabilities on the beneficiaries. Therefore, under no circumstances should the beneficiaries, including MPPMCL and MSEDCL, be made liable to bear the transmission charges of the bays covered under the Petition prior to the actual power flow, which has not taken place till 31.3.2024.



101. In response, the Petitioner has reiterated its submissions.

102. MUML, in its reply vide the affidavit dated 21.12.2024 and written submissions dated 12.2.2025, has submitted as under:

a. There was an inherent mismatch in the scheduled commissioning of the transmission line and PK Line

- i. MUML is not liable to pay the transmission charges for the transmission asset for the purported mismatch period because, in the present case, there was an inherent mismatch of 114 days in the SCODs of the transmission asset of the Petitioner and Part C of MUML, including the PK Line, which is not attributable to MUML. Notably, as per the IA, the SCOD for the transmission asset was 30.8.2023. Since, from the beginning, it was not in a matching timeframe with the original SCOD of the PK Line, i.e., 22.12.2023. The original SCODs of the transmission asset of the Petitioner's asset *vis-à-vis* the PK Line (which is claimed by the Petitioner to be interconnected) are mentioned as under:

SCOD of the transmission asset of the Petitioner	Original SCOD of PK Line of MUML (Part C)	Difference (in days)
30.8.2023	22.12.2023	114

- ii. In view of the above, from the initial stage of planning itself, there was an inherent mismatch between the SCODs of the transmission asset of the Petitioner and the PK Line. This inherent mismatch was neither addressed nor taken care of by the concerned planning agencies or the Petitioner, or the LTTCs.
- iii. The LTTCs, Petitioner and the coordinating agencies, such as the CEA, had full knowledge of the commissioning status of the PK Line and the transmission asset.



Moreover, the transmission asset is a standalone asset that is proposed to be constructed on the existing green-field Sub-stations of the Petitioner and is not associated with any other upstream/downstream assets under the TSA. Therefore, it was both feasible and possible for the Petitioner, along with other planning agencies, to align the commissioning of its assets with the commissioning of the PK Line. However, clearly, there was an inherent mismatch between the SCODs of the PK Line and the transmission asset at the planning stage itself.

- iv. Therefore, MUML cannot be penalized at all for any purported mismatch in the CODs of the transmission asset and the PK Line. There was a mismatch of 114 days at the planning stage. Therefore, MUML cannot be penalized for the inherent mismatch of 114 days.

b. SCOD of the PK Line stands revised on account of the MoP Orders

- i. The SCOD of the MUML Project, including the PK Line, stands extended and revised on account of the MoP Orders. It is pertinent to note that the SCOD of the PK Line was revised by 8 months, i.e., till 22.8.2024. As stated above, MUML was facing hindrances on account of various force majeure/uncontrollable events, and MUML has kept the authorities and the stakeholders informed about the status of the PK Line.
- ii. In no circumstances can MUML be saddled with the liability for a mismatch as the SCOD of the PK Line stands revised as per the MoP orders. Such imposition of liability will be contrary to the Commission's own regulations, which are binding. The SCOD extension referred to hereinabove is only on account of the MoP



orders. As per Regulation 13(12) of the 2020 Sharing Regulations, the liability, if any, can be imposed only in case of the delay by the transmission licensee. However, in the present case, there is no delay on the part of MUML in commissioning the PK Line of the MUML Project.

iii. The Commission *vide* its order dated 25.2.2023 in Petition No. 164/MP/2021 has allowed the extension of the SCOD to the concerned transmission licensee. Further, the Commission by its various orders, including the order dated 18.5.2023 in Petition No. 334/TT/2022, in order dated 15.2.2023 in Petition No. 301/TT/2022 and in order dated 19.5.2024 in Petition 41/TT/2022 has given effect to the said MoP orders and has extended the SCOD of the assets of the Petitioner in the said orders.

iv. Since the original SCOD of the PK Line was revised by the MoP Order in clear recognition of the unavoidable delay caused by the COVID-19 pandemic in the implementation of the transmission projects, and there is no obligation on MUML seeking extension of its SCOD, through a separate Petition from the Commission.

c. MUML cannot be penalised for a period of around 12 months of the purported mismatch period on account of the inherent mismatch and prior to Revised SCOD as per the MoP Orders.

i. MUML has submitted that it is not liable to pay the transmission charges for the purported mismatch period at all, no liability can be fastened on MUML for at least period of around 12 months in view of (a) 114 days of inherent mismatch in the original SCODs between the instant transmission asset and the PK Line (as detailed in preceding paragraphs); and (b) Eight months extension granted by the MoP orders. The TSA executed by the MUML clearly requires the PK Line to be



commissioned by its SCOD, and such SCOD is subsequently extended by the MoP to the Revised SCOD. Therefore, MUML cannot be penalised for not commissioning before such date.

d. SCOD of PK Line was not preponed in the present case

- i. The Petitioner is trying to mislead the Commission by referring to the MoM dated 3.11.2022. In the said MoM dated 3.11.2022, it has been mentioned that the date shall be subject to modifications based on the progress of the MUML Project. Pertinently, the CEA in its MoM specified that the SCOD may be finalized at a later stage if all the parties agree.
 - ii. During the said meeting, MUML was not aware of the uncontrollable issues/ force majeure events and change in the scope of work, which would further delay the project.
 - iii. Despite the best endeavours of MUML, it was unable to complete the work under its scope on account of the uncontrollable issues/ force majeure events and additional works. In view of the delays caused due to the uncontrollable events/ force majeure events and additional works, MUML was unable to commission its assets before the original SCOD of Part C, i.e., 22.12.2023 and updated the Petitioner, the LTTCs and other coordinating agencies regarding the same in various meetings, letters and through MPRs.
 - iv. Further, the SCOD decided and contemplated in the MoM dated 27.11.2020 were not final and subject to further revision based on the progress of the PK Line, and once the final date was agreed upon by the parties as per the mechanism provided in the MoP Policy dated 15.7.2015 and the TSA.
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- v. It is also a settled law that the statements given or any resolutions adopted by the parties in such meetings cannot constitute an agreement which is binding on the parties. Reliance was placed on the APTEL's judgment in the Appeal No. 109 of 2021 of Punjab State Transmission Corporation Limited v. Central Electricity Regulatory Commission and Others.
- vi. Therefore, the Petitioner cannot place any reliance on the comments given by MUML in the meetings regarding the progress of the project, and such comments cannot be read in isolation and in ignorance of the complete facts and circumstances of the case and do not tantamount to any change in terms of the TSA.
- vii. The Petitioner is trying to mislead the Commission by referring to letters dated 24.6.2020 and 8.9.2020 and the MoM dated 27.11.2020. The Petitioner has not placed on record the subsequent communication dated 28.12.2022 issued by the MoP to the CEA and other stakeholders, recognising the expected COD for the MUML Project in June 2024. The commissioning dates in the meeting dated 27.11.2020 were indicated considering the progress of the PK Line at that time, and the MoM clearly provided that such dates shall be subject to modifications based on the progress of the PK Line. The early commissioning was never finalised and acted upon by the stakeholders as per the mechanism prescribed by the MoP Policy. Since the above-stated mechanism was not acted upon by the stakeholders, the SCOD was never postponed.



e. PK Line was prevented from commissioning on account of uncontrollable events/force majeure events, and the additional scope of work

- i. MUML was prevented from commissioning the PK Line due to the uncontrollable events/ force majeure events. In addition to the force majeure events, the implementation was also affected due to hindrance caused by the landowners and to implementation of additional scope of works. MUML approached the Petitioner to resolve the pending issues between the landowners and the Petitioner. Further, with respect to the additional scope of works, the information sought by MUML was provided by the Petitioner belatedly. Therefore, the delays due to the defaults of the Petitioner are not attributable to MUML, and MUML cannot be penalized for the same.
- ii. The APTEL in Appeal No. 17 of 2019 titled as NRSS XXXI (B) Transmission Limited v. Central Electricity Regulatory Commission & Ors. ("NRSS Judgment"), subsequently affirmed in the judgement dated 3.12.2021 in Appeal Nos. 129 of 2020 and 276 of 2021, made it clear beyond doubt that when a transmission licensee (such as the MUML) is affected by the force majeure events, such licensee cannot be made liable to pay any charges to an inter-connecting entity that was incidentally delayed, like the Petitioner in the present case. It was categorically noted by the APTEL that any direction to the licensee, who was impacted by the uncontrollable events, to pay the IDC and IEDC to the incidentally delayed entity will be contradictory to the relief granted to the delayed entity and the extension of the COD granted to it. The *ratio decidendi* of the NRSS judgment applies to transmission licensees implementing projects under the TBCB regime,



as per Section 63 of the Electricity Act, 2003 (the Act), and therefore, it is squarely applicable to the MUML's case.

- iii. In view of the above, MUML is entitled to appropriate relief on the basis of the uncontrollable events/ force majeure events, and any liability imposed on MUML for the purported mismatch period shall be contradictory to such relief.

f. The LTTCs failed to perform their substantive obligations under the TSA

- i. When a contract clearly assigns the responsibility on a party to perform certain obligations, such obligations are required to be performed by such party in the manner as prescribed under the contract, which in this case is the TSA. Article 6.1.2 of the TSA casts a responsibility upon the lead LTTC to coordinate with the Petitioner for arranging the associated inter-connection facility matching with the commissioning of the MUML Project. In terms of the TSA, the LTTCs are mandated to arrange the interconnection facilities.
- ii. Articles 4.3, read with Article 5.1 of the TSA, provides that the LTTCs should monitor and coordinate the development of inter-connection facilities associated with the MUML Project in a matching timeframe. In this regard, the provisions of the TSA mandate MUML to provide the MPRs to LTTCs and the CEA capturing various details on month-by-month progress of the MUML Project, including the PK Line along with its SCOD and anticipated COD. Further, MUML, being a prudent utility has provided such copies of its MPRs, which are also published by the CEA in its MPRs on TBCB ISTS assets. The MPRs provide a clear, unambiguous and detailed report on the status of the MUML Project along with the various issues faced by the MUML during the implementation of the MUML Project.



- iii. The LTTCs and the coordinating agencies, such as the CEA, had full knowledge of the status of commissioning of the PK Line. Further, MUML, through its various MPRs, had also apprised its LTTCs about the uncontrollable events/force majeure events faced by the MUML. Therefore, the Petitioner and the LTTCs were kept apprised, informed, and duly aligned with the progress of the PK Line.
- iv. Therefore, MUML has performed its obligations under the TSA in its entirety. On the other hand, the LTTCs have failed to perform their function of monitoring the commissioning of the transmission asset.

g. The Commission cannot saddle MUML with liability under the provisions of the Sharing Regulations 2020

- i. In the present case, the 2020 Sharing Regulations cannot be made applicable between a line and an inter-connecting facility forming part of one and the same transmission system, as the aforesaid regulations clearly contemplate the mismatch between the two separate transmission systems for the applicability of the aforesaid Regulations.
- ii. Regulation 13(12) of the Sharing Regulation 2020 provides for the treatment of a mismatch of the COD as under:

"13(12) In case of a transmission system where COD has been approved in terms of proviso (ii) of Clause (3) of Regulation 4 of the Tariff Regulations, 2014 or Clause (2) of Regulation 5 of the Tariff Regulations, 2019 or where deemed COD has been declared in terms of Transmission Service Agreement under Tariff based Competitive Bidding, the Yearly Transmission Charges for the transmission system shall be:
(a) paid by the inter-State transmission licensee whose transmission system is delayed till its transmission system achieves COD, or
(b) paid by the generating company whose generating station or unit(s) thereof is delayed, till the generating station or unit thereof, achieves COD, or
(c) shared in the manner as decided by the Commission on case to case basis, where more than one inter-State transmission licensee is involved or both transmission system and generating station are delayed."



- iii. Pertinently, the Indian Electricity Grid Code, 2010 (IEGC 2010), provides the following definition of Inter-State Transmission System:

"Any system for the conveyance of electricity by means a main transmission line from the territory of one State to another State, (ii) The conveyance of electricity across the territory of an intervening State as well as conveyance within the State which is incidental to such inter-state transmission of energy, (ii) the transmission of electricity within the territory of a state on a system built, owned, operated, maintained or controlled by CTU."

- iv. Similarly, the TSA provides for the following definition of 'Transmission System':

"Shall mean a line with associated sub-stations or a group of lines interconnected together along with associated substations and in term includes the equipment associated with transmission lines and substations"

- v. From the above, it is clear that the PK Line and the transmission asset consist of one single transmission system. In accordance with the 2019 Tariff Regulations, 2020 Sharing Regulation and the Indian 2010 Electricity Grid Code, it is clear that only a mismatch period between two separate transmission systems can be billed bilaterally. Therefore, the Commission cannot saddle MUML with bilateral liability for the period of purported mismatch.
- vi. Further, as per Regulation 13(12) of the 2020 Sharing Regulations, the liability, if any, can be imposed only in case of the delay by the transmission licensee. However, in the present case, there is no delay on the part of MUML in commissioning the PK Line on account of the inherent mismatch and the MoP orders. Therefore, no liability can be imposed on MUML.
- vii. The intention of the Commission not to penalize transmission licensee for a period prior to the SCOD is clear from the Statement of Reasons (SOR) to the 2019 Tariff Regulations. The provision for the mismatch period was introduced by the Commission under Regulation 6(2) of the 2019 Tariff Regulations, which provides

that where the transmission system of the inter-connected licensee has not achieved the COD (which is not before the SCOD of the transmission system), such transmission licensee would be liable to pay the transmission charges for the mismatch. The relevant portions of the SOR for the 2019 Tariff Regulations have been extracted hereinbelow:

"Statement of Reasons

...

4.2.5 Besides, in sub-clause (b) of Clause (1) and sub-clause (b) of Clause 2 of Regulation 6, the Commission has added a phrase which is not before the SCOD of the transmission system in order to clarify the liability for transmission charges on account of mismatch after the date of commercial operation of the transmission system, shall not commence before SCOD of the transmission system."

- viii. Admittedly, the PK Line's SCOD stands extended to 22.8.2024 on account of the MoP orders alone. Therefore, there can be no question of any liability on MUML for the period till 22.8.2024. It has been clarified that Regulation 6(2) of the 2019 Tariff Regulations was deleted w.e.f. 19.2.2021. However, MUML is relying on its SOR only to demonstrate that it is not liable to be charged for the mismatched period prior to the SCOD and for the period of delay caused by the force majeure events.

h. MUML is not liable to pay the transmission charges as there is no contractual relationship or commitment between the two parties

- i. No liability can be imposed on the MUML as there is no relationship whatsoever between the MUML and the Petitioner, either statutory, contractual or regulatory, based on which MUML can be bilaterally made liable to the Petitioner for the payment of the transmission charges.
- ii. The APTCL has made it categorically clear, vide its order dated 15.9.2022 in Appeal Nos. 109 of 2021, Punjab State Transmission Corporation Ltd. vs. CERC



& Ors. (PSPCL Order) that in the absence of a formal contract between the inter-connecting entities, no liability for the payment of the transmission charges can be imposed on the delaying entity in the case of a mismatch in the commissioning of the transmission asset. The Commission ought to apply the principles reiterated above, as there is no agreement whatsoever between MUML and PGCIL, and therefore, there are no grounds on which MUML can be made liable for the payment of the transmission charges.

i. No liability to pay the transmission charges can be imposed on MUML in view of the MoP Notification dated 15.1.2021

- i. The MoP had issued a direction under Section 107 of the Electricity Act, 2003, *vide* letter No. 23/12/2016-R&R dated 15.1.2021, *inter alia*, holding that in cases where there was a mismatch of the COD, the bilateral liability ought not to be imposed on an individual licensee. The MoP, in the said letter, while issuing the directions to the Commission under Section 107 of the Act, recognised the issues arising out of fastening of the liability on the transmission licensee whose transmission system was delayed.
- ii. The MoP's direction observed that there is no contractual or direct relationship between the defaulting party and the aggrieved. Therefore, it is not proper to require a third entity to compensate either party to a contract. The sum and substance of the notification is that there is no direct relationship between the transmission licensees and the users. The relationship of the licensees, as well as users of the ISTS, should be with the Central Transmission Utility of India Limited (CTUIL). The regulations in the Tariff Regulations are not proper as the penalties are uncapped, which would lead to inflated bids. In the case of a project executed



under the TBCB Guidelines, the defaulting licensee is already required to pay liquidated damages as per the TSA, and the additional amount is not specified therein.

- iii. The directions issued by the MoP under Section 107 of the Act are binding on the Commission. The bidding process for the MUML Project was completely governed by the TBCB Guidelines issued by the Central Government. Therefore, the aforesaid notification can be considered as a 'clarification' on the TBCB Guidelines, thereby having a force of law and not merely a request to be implemented in the future.

j. Levy of transmission charges for the purported mismatch period amounts to Change in Law event for MUML.

- i. Any liability towards the payment of the transmission charges, if levied upon MUML by the Commission, shall be tantamount to a Change in Law for MUML under the provisions of Article 12 of MUML's TSA, on account of notification of new regulations in the form of the 2020 Sharing Regulation and enforcement of such regulations by the Commission. The imposition of liability would indirectly amount to imposing liability on beneficiaries of ISTS. The cutoff date for claiming the compensation on account of a Change in Law under the TSA is 20.5.2019, whereas the 2020 Sharing Regulations were notified on 4.5.2020. Therefore, MUML reserves its rights to raise Change in Law claims in the event any liability to pay the transmission charges is fastened upon MUML.

k. Regulatory treatment of the force majeure events affecting MUML

- i. There is a material difference between the position of a transmission licensee implementing a project under the TBCB regime and a transmission licensee



operating under the RTM regime when it was impacted by a mismatch situation. Under the RTM regime, which is the Petitioner's case, it is open for a transmission licensee to claim compensation for the financial losses incurred on account of the uncontrollable parameters, such as force majeure events, through an increase in tariff payable to it by its DICs. Such financial loss includes any loss in the transmission charges incurred due to the delay caused by the force majeure events impacting an inter-connecting transmission licensee. However, the same options are not available to a TBCB transmission licensee, such as the MUML.

- ii. It is relevant to take note of the provisions of the 2019 Tariff Regulations that, *inter alia*, deal with the terms of truing up of the transmission projects. The relevant excerpts of Regulations 3 and Regulation 22 of the 2019 Tariff Regulations are reproduced as under:

2019 Tariff Regulations

"3. Definitions

In these regulations, unless the context otherwise requires-

(25) 'Force Majeure' for the purpose of these regulations means the event or circumstance or combination of events or circumstances including those stated below which partly or fully prevents the generating company or transmission licensee to complete the project within the time specified in the Investment Approval, and only if such events or circumstances are not within the control the generating company or transmission licensee and could not have been avoided. had the generating company or transmission licensee taken reasonable care or complied with prudent utility practices:

"22. Controllable and Uncontrollable factors:

The following shall be considered as controllable and uncontrollable factors leading to cost escalation impacting Contract Prices, IDC and IEDC of the project:

- (2) The "uncontrollable factors" shall include but shall not be limited to the following:*
- i. Force Majeure events.; and*
 - ..."*



- iii. Therefore, any liability of bilateral payment of the transmission charges on account of the uncontrollable issues/ force majeure events affecting an inter-connecting TBCB licensee (such as the MUML) which caused the delay in utilization of assets belonging to the RTM licensee (such as the Petitioner) can be considered as an adverse impact of Force Majeure event *qua* the RTM licensee (the Petitioner). Accordingly, any adverse impact on MUML on account of the force majeure events affecting the transmission asset may be passed through as a tariff to the Petitioner's DICs (through the PoC pool). In contrast, under the extant regulatory regime, a TBCB licensee does not have the same option, i.e., to socialise the costs of the adverse impact of Force Majeure events impacting a TBCB licensee by recovering the same from its DICs. In other words, a TBCB licensee cannot pass through the adverse impact of its bilateral liability towards another transmission licensee. In view of this, there is a clear difference between the regulatory treatment of bilateral liability arising out of force majeure delays for the RTM and TBCB licensees; therefore, a TBCB licensee and the RTM licensee are treated differently.
- iv. It was submitted that the force majeure events, being a finding of fact, are equally applicable to the Petitioner as much as to MUML. Therefore, any purported delay in putting the transmission asset to use on account of the force majeure events affecting MUML should be treated as a force majeure event affecting the Petitioner. Notably, the transmission asset has also been delayed due to the COVID-19 pandemic outbreak. Accordingly, any mismatch in the COD on account of the force majeure events ought to be treated as a force majeure event for the Petitioner



under the 2019 Tariff Regulations. Reliance has been placed on the PTC India Limited vs. CERC. In the present case as well, the Commission should apply the applicable regulations as extracted and discussed above

I. No liability can be fastened on MUML on the basis of the order of the APTEL dated 02.05.2023, in Appeal No. 352 of 2022

- i. The reliance placed by the Petitioner on the APTEL's order dated 2.5.2023 in Appeal No. 352 of 2022 titled as "Fatehghar Bhadla Transmission Company Limited v Central Electricity Regulatory Commission and Ors." (FBTL Order), is erroneous and misplaced. No reliance can be placed on the said judgment of the APTEL as the same is per incuriam. The FBTL Order is per incuriam, contrary to the provisions of the Act and/or the binding letter of the MoP (Letter No. 23/12/2016-R&R) dated 15.1.2021 and/or the provisions of the TSA the binding provisions of the TSA by which the responsibility of arranging inter-connecting transmission facilities has been fastened upon the LTTCs. It is pertinent to note that the FBTL Order has also been challenged before the Hon'ble Supreme Court in Civil Appeal No. 4388/2023 and has not attained finality.
- ii. In the present case, there was an inherent mismatch between the SCODs, which were further extended by a period of 8 months due to the MoP Orders. Therefore, no reliance can be placed on the same.
- m. Notwithstanding the above, the Yearly Transmission Charges for the alleged mismatch period are payable as per the Central Electricity Regulatory Commission (Sharing of Inter-State Transmission Charges and Losses) (Second Amendment) Regulations, 2023**
- i. The amended to Regulation 13(12) the 2019 Tariff Regulations provides that the Yearly Transmission Charges ("YTC") for the inter-State transmission system or



an element for which the deemed COD has been approved or declared shall be paid 50% of the YTC of its inter-State transmission system for a period of six (6) months from the date of the deemed COD or till the commencement of the actual power flow. Further, an inter-State transmission licensee is responsible for the delay in the commencement of power from the inter-State transmission system of another inter-State transmission licensee which has achieved the deemed COD., inter-State transmission licensee of the delayed inter-State Transmission system shall pay 50% of the YTC of its transmission system or 50% of the YTC of the transmission system which has achieved the deemed COD, whichever is lower, till its delayed inter-State transmission system achieves COD.

- ii. In view of the 2nd Amendment, the YTC, if any, shall be payable to the Petitioner, only as per the amended Regulation 13(12) of the 2019 Tariff Regulations.
- iii. Further, the said amendment has come into effect on 1.11.2023. Hence, any approval of the proposed COD would be post 1.11.2023, i.e., after the date the said amendment comes into effect. Therefore, the liability on MUML, if any, would be in accordance with the 2nd Amendment to the 2020 Sharing Regulations for the period after the said amendment has come into effect, i.e., 1.11.2023. Without prejudice to the above, the MUML's liability, if any, post 1.11.2023 is required to be determined strictly in terms of the 2nd Amendment to the 2020 Sharing Regulations.

103. The Petitioner, in its rejoinder to the reply of MUML, vide affidavit dated 6.1.2025, has submitted as under:



a. There is an inherent mismatch between the SCOD of both sets of assets.

- i. No liability can be imposed between the inherent mismatch between the SCODs of the Petitioner's asset, i.e., 30.8.2023 and the PK Line, i.e., 22.12.2023.
- ii. The Petitioner reiterates the averments and submissions made under the head of 'Factual Position'. Further, pursuant to the insistence of MUML and subsequent agreement and decision in the meeting dated 3.11.2020 for revising the SCOD of the inter-connecting transmission line of MUML as 31.8.2023 and the Petitioner's action of aligning its SCOD in its IA, is liable to be rejected.
- iii. In view of the 'factual position', it is wrong to say that the inherent mismatch was neither addressed nor taken care of by the concerned planning agencies, the Petitioner, or the LTTCs.

b. No liability can be imposed on MUML for the period between 30.8.2023 (COD of the Petitioner's asset) and 24.8.2024 (revised SCOD of MUML's transmission line by virtue of the order of the MoP)

- i. It is the case of MUML that the SCOD of the inter-connecting transmission line has been revised by eight months, extending to 22.8.2024 as per the MoP's order. Accordingly, no transmission charges can be levied on MUML.
- ii. The extension in the SCOD for the assets in the scope of MUML does not override or invalidate the agreement reached during the meeting convened by the CEA on 3.11.2020, where the revised SCOD of August 2023 was mutually established. It was pursuant to the aforementioned decision in the IA with the SCOD as 30.8.2023 was envisaged. Further, the Petitioner's claim under Regulation 5 (2) of the 2019 Tariff Regulations is pursuant to the regulatory framework, and the Petitioner is entitled to the transmission charges from the claimed COD.



- iii. The attempt to rely on subsequent MoP orders to justify delays contradicts MUML's prior actions and engagement in facilitating early commissioning. The extension referenced by MUML pertains to general project timelines and cannot be selectively applied to override specific agreements made through regulatory and stakeholder consultations. Accordingly, MUML's assertion must be rejected, and the SCOD of August 2023, as previously agreed, should be upheld.
- iv. The extension of the SCOD, as referenced by MUML, must be interpreted strictly within the framework of the TSA, to which the Petitioner is not a party. The obligations and entitlements of the Petitioner are governed by the applicable regulatory provisions, independent of any extensions or modifications to the SCOD under the TSA.
- v. It is essential to underscore that the Petitioner's entitlement to the transmission charges arises directly from the regulatory framework and the completion of its scope of works, as per the agreed schedule. The extension of the SCOD under the TSA cannot prejudice or diminish the Petitioner's right to claim the transmission charges, particularly when its works were completed in adherence to the revised timeline established during the CEA meeting on 3.11.2020, and reaffirmed through the MoM dated 27.11.2020.

c. SCOD of PK Line was not preponed in the present case

- i. The assertion that the SCOD contemplated in the MoM dated 27.11.2020 was not final and subject to further revision based on the progress of the PK Line is misconceived and unsupported by the records. The MoM dated 27.11.2020 reflects a clear, consensus-driven decision to revise the SCOD to August 2023,



following detailed deliberations involving all stakeholders. There is no indication within the MoM that the revised SCOD was provisional or contingent upon the future developments regarding the PK Line.

- ii. Even if the line was considered provisional or contingent, MUML was obligated to take appropriate steps and engage in bilateral discussions with the Petitioner to address any potential misalignment in the SCOD. No such action was undertaken by MUML, further demonstrating that this contention is an afterthought, aimed at evading liability. MUML cannot selectively rely on the agreement when convenient and later attempt to disown its commitments. This contradictory stance reflects an attempt to unjustly avoid obligations, and such conduct must be rejected as untenable.
 - iii. Further, it is evident from the monthly progress report of the CEA that MUML has communicated August 2023 as its SCOD till March 2022, and it was only from April 2022 onwards that the expected commissioning date was communicated as December 2023.
 - iv. The reliance placed by MUML on the PSPTCL judgment of the APTEL is incorrect, as the factual position in that case is different from the present case. The Petitioner craves liberty to make a detailed submission during the course of the hearing.
- d. MUML was prevented from commissioning on account of uncontrollable events/force majeure events and additional scope of works.**
- i. MUML cannot thrust its force majeure events on the Petitioner due to the reason that the force majeure events in context to its TSA are with its LTTCs. The Petitioner, as a transmission licensee, requires to be paid for the asset that it is setting up. A tariff recovery is not similar to a claim for damage, but it goes towards
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- servicing the capital cost invested by the Petitioner in the construction of transmission assets. Further, the Petitioner reiterates its preliminary submissions.
- ii. The extension of the SCOD by the MoP notification and other force majeure events and their financial implications, if any, will be within the four corners of the TSA, i.e., the contractual obligations between the TSP and its LTTCs. The extension in the SCOD due to the force majeure events and the aforementioned MoP circular will not absolve the MUML from the payment of the transmission charges in terms of the 2020 Sharing Regulations in vogue.
 - iii. The reliance placed by MUML on the APTEL's judgment in *NRSSXXI-B Transmission Limited* is erroneous. The said judgment was passed in a different set of operating Regulations *vis-à-vis* the 2014 Tariff Regulations and the 2010 Sharing Regulations. The regulatory regime, subject matter of the present Petition (2019 Tariff Regulations and 2020 Sharing Regulations), provides for the treatment in case of a mismatch between the COD of 2 different transmission licensees. Further, the APTEL vide judgment dated 2.5.2022 in Appeal No. 352 of 2022 has held that a force majeure event does not absolve payment of mismatch charges as these were levied in terms of the 2019 Tariff Regulations and 2020 Sharing Regulations.
 - iv. Further, MUML's plea of force majeure is distinct from the independent right available to the Petitioner against the defaulting entity in the event of mismatch as envisaged under the 2019 Tariff Regulations and the 2020 Sharing Regulations. The Petitioner's associated asset (subject bays) were ready on 30.8.2023; as such, the COD has been claimed as 30.8.2023 under Regulation 5(2) of the 2019



Tariff Regulations, which is in line with the agreement for the implementation schedule in the meeting dated 3.11.2020. Therefore, the submissions made by MUML were intended to wriggle out of the payment obligation.

- v. Further, MUML has sought details with respect to PLCC / FOTE on 25.5.2024, and the Petitioner has provided the same on 2.6.2024.

e. TSA casts a responsibility on the LTTCs to perform their substantive obligations

- i. MUML is largely seeking to blame the LTTCs, which are the beneficiaries of the system being developed by the MUML. MUML is taking a strange argument and trying to shift all its liability towards LTTCs, for a reason which is completely attributable to MUML.
- ii. The Petitioner, as a transmission licensee, is not privy to the terms and conditions of the TSA between MUML and its LTTCs. Further, the rights and liabilities of the MUML *qua* its LTTCs are governed under the provisions of the TSA, and the MUML ought to raise issues against the LTTCs under the four pillars of the TSA and not in tariff proceedings initiated by the Petitioner for its transmission assets.
- iii. Further, the Commission, while granting the transmission license to MUML, directed to coordinate with the licensee (including the deemed licensee) for executing the upstream or downstream transmission projects and the CEA for ensuring the execution of the project in a matching timeline. It is also the responsibility of the MUML to implement the transmission line in the matching time frame with the Petitioner's assets in the present case, which was on the MUML's proposal for early commissioning.



- f. The Commission cannot saddle MUML with a liability under the provisions of the Sharing Regulations, 2020**
- i. The contention of MUML is hyper-technical and, as such, is liable to be dismissed. The concept of defaulter pays principle has been adopted by the Commission in various orders and later incorporated in the Sharing Regulations in order to ensure tariff recovery to a transmission licensee which has commissioned its scope of work against the assets not put to commercial use in the matching timeframe due to the default of another transmission licensee. Regulation 13(12) of the 2020 Sharing Regulations is very clear regarding the payment of the transmission tariff to the transmission licensee which has commissioned its scope of work. It cannot be the case that a mismatch has to be in two separate transmission systems. Mismatch can also be in multiple assets in a single transmission system. The interpretation of the 2020 Sharing Regulations, GRID Code and TSA advanced by MUML is erroneous and is denied and liable to be dismissed.
- g. MUML is not liable to pay the transmission charges as there is no contractual relationship or commitment between the two parties**
- i. The payment of the transmission charges is, anyway, not flowing from the contract but from the Regulations; therefore, the contention of the absence of any contractual obligation does not even arise in the instant case. These Regulations are statutory in character, have the force of law, and they would govern even in situations where there exists no contractual relationship between the regulated entities, as these regulations are binding on all of them, irrespective of whether or not they are parties to a contract. Consequently, even in the absence of a contract between them and the Petitioner, the MUML would nonetheless be governed by



the 2019 Tariff Regulation and 2020 Sharing Regulation. Neither the 2020 Sharing Regulations nor the 2019 Tariff Regulations provides for contractual obligations as a prerequisite for the levy of mismatch liability. Further, it has been submitted that the APTEL in the aforementioned FBTL judgment has held that no contractual obligation is required in case of imposition of liability for the mismatch period.

h. No liability to pay the transmission charges can be imposed in view of the notification of the MoP dated 15.1.2021

- i. The APTEL, in the FBTL judgment, has already addressed and adjudicated upon the applicability of the aforementioned MoP directive. As the issue has been conclusively settled by the APTEL, it is no longer res integra and MUML's reliance on the MoP directive is misplaced. Accordingly, the plea raised by MUML on this ground is unsustainable and liable to be dismissed.

Analysis and Decision on Sharing of Transmission Charges

104. We have considered the submissions of the Petitioner, MPPMCL, MSEDCL, and MUML and perused the documents available on record.

105. With respect to the MPPMCL's and MSEDCL's submissions, we have observed that the transmission asset under the scope of MUML was incomplete, and the said transmission line was commissioned only in September 2024. Due to the said reason, in the absence of the established power flow, the project was not operational; evidently the transmission service was not available for use by the beneficiaries of MPPMCL and MSEDCL till September 2024. The said delay was on the part of MUML; therefore, the beneficiaries of MPPMCL and MSEDCL are not held liable for the transmission charges before September 2024, i.e., 27.9.2024. The transmission charges of the transmission



asset shall be recovered as per the provisions of the 2020 Sharing Regulations, as provided in Regulation 57 of the 2019 Tariff Regulations.

106. With respect to the MUML's submissions, the following issues have arisen for our consideration:

I. **Whether there is an inherent mismatch in the SCOD of the Petitioner's asset and associated MUML's asset and revision in the SCOD as per the MoP orders, and delay in the commissioning due to uncontrollable events/force majeure events, and additional scope of works?**

II. **Whether the liability for sharing of the transmission charges will arise under the 2020 Sharing Regulations or not?**

III. **Whether MUML is not liable to pay the transmission charges in view of the MoP Notification dated 15.1.2021?**

IV. **Whether MUML is liable to pay the transmission charges would amount to a change in Law event?**

V. **Applicability of the APTEL's judgement dated 2.5.2023 in Appeal No. 352 of 2022.**

VI. **Whether the regulatory treatment for the bilateral liability is different for the TBCB and RTM?**

Issue-I : Whether there is an inherent mismatch in the SCOD of the Petitioner's asset and associated MUML's asset and revision in SCOD as per MoP orders?

107. MUML has contended that an inherent mismatch of 114 days between the SCODs of the transmission asset and the associated line of MUML was neither addressed nor taken care of by the concerned planning agencies or the Petitioner or the LTTCs. The Petitioner has submitted that the contention raised by the MUML is fallacious and belies the true factual position and is liable to be rejected.

108. Further, MUML has contended that the SCOD of PK Line was extended by 08 months by virtue of the MoP Orders and has relied upon the Commission's order dated



25.2.2023 in Petition No. 164/MP/2021, wherein the Commission has allowed the extension of the SCOD of the concerned transmission licensee in accordance with the MoP orders. Therefore, imposition of liability will be contrary to the Commission's own regulations, which are binding. MUML has further submitted that commissioning the PK line was getting delayed due to the uncontrollable events/force majeure events, additional scope of work, and hindrance caused by the landowners. The MUML relied on the APTEL's Judgment in NRSSXXXI-B Transmission Limited. The Petitioner has submitted that MUML's contentions are misleading and lack merit. The Petitioner has further submitted that the extension in the SCOD due to force majeure and aforementioned MoP circular will not absolve the MUML from payment of the transmission charges in terms of the Sharing Regulations 2020 in vogue. Further, the Petitioner has relied upon the APTEL's judgment dated 2.5.2022 in Appeal No. 352 of 2022.

109. We have considered the Petitioner's and MUML's submissions. Normally, the SCOD of the interconnected associated transmission systems should be on the same date for smooth integration of the new transmission assets into the Grid, and this aspect should have been taken into consideration by the responsible planning and coordination entity and the concerned licensees. Also, as per the MoP policy for early commissioning vide OM dated 15.7.2015 and subsequently constitution of the committee to ensure the smooth operationalization of the policy vide OM dated 5.10.2016, the TSA would stand modified mutatis mutandis according to the revised SCOD stated by the committee. In the instant case, after the revision of the SCOD to 31.7.2023 on request of MUML vide committee meeting dated 3.11.2020, there is no inherent mismatch in the SCOD of the Petitioner's asset and MUML's asset.



110. Further, the MUML's reliance on the MoP orders by which the extension of 08 months has been provided on account of the COVID-19 pandemic and the Commission's order dated 25.2.2023 in Petition No. 164/MP/2021, we have observed that in this regard the Commission, in its order dated 26.4.2022 in Petition No. 60/TT/2017, has aptly summed up the issues with respect to the mismatch arising out due to the force majeure events as under:

"67. Hence, the principle has been followed consistently that even if under Force majeure, delay is condoned or SCOD is extended by the Commission, the liability of upstream/downstream system remains on such delayed transmission licensee."

"68. Further, there is clear fallacy in NTL's contentions. Suppose, for the sake of argument, it is assumed that NTL is not liable to pay IDC and IEDC. Then the question arises as to who will bear such charges due to Powergrid. This liability of IDC and IEDC cannot be capitalized as the transmission assets have not been put to use and the beneficiaries have not reaped any benefits. At the same time, PGCIL cannot be denied IDC and IEDC as it has done its part and made the transmission assets ready for use and, therefore, cannot be made to suffer on account of delay on the part of NTL. The IDC and IEDC payable by NTL to PGCIL cannot be passed on and loaded on the LTTCs/beneficiaries as there is no provision in TSA under which such recoveries can be made. In fact, the Commission in its order dated 21.9.2016 in the RAPP Case and order dated 4.1.2017 in the Patran Case has laid down the principle that the LTTCs/ beneficiaries are liable to pay transmission charges only when transmission system is being used or put to use. The APTEL in its judgement dated 27.3.2018 in Appeal No.390 of 2017 (the Patran Case) and judgement dated 18.1.2019 in Appeal No. 332 of 2016 (the RAPP Case) has upheld the same principles enunciated by the Commission. These principles flow from the principles enunciated by the Hon'ble Supreme Court vide judgment dated 3.3.2016 in Civil Appeal No. 9193 and Civil Appeal No. 9302 of 2012, wherein the Hon'ble Supreme Court observed as under: "11. Xxx As such the appellant might have suffered due to delay on the part of NTPC in completing the transmission lines for some period. But beneficiaries, including respondent No. 1, cannot be made liable to pay for this delay w.e.f. 01.07.2010 as the energy supply line had not started on said date. 12. Xxx 13. Since we are in agreement with the Tribunal that in the present case, respondent No. 1 and the beneficiaries could not have been made liable to pay the tariff before transmission line was operational, we find no infirmity in the impugned order...."

111. We are of the consistent view that even if the time overrun is condoned due to the force majeure events, the entity responsible for the delay in implementation of the associated upstream/downstream elements is liable to bear the transmission charges for the period of mismatch. MUML has sought relief from payment of the transmission



charges on the grounds of delay in the commissioning of the downstream asset due to the force majeure events. Accordingly, MUML is not eligible for any exemption from the payment of transmission charges even in case of the force majeure conditions under Regulation 13(12) in the 2020 Sharing Regulations. Further, the entity responsible for the execution of the downstream or upstream transmission licensee or a generating station, irrespective of the fact that it is affected by the force majeure events, has to bear the transmission charges for the period of the mismatch from the COD of the other transmission asset to the COD of the transmission asset/ scheme under its scope.

112. MUML has submitted that in the CEA meeting dated 3.11.2022, the modified date shall be subject to the modifications based on the progress of the MUML project. The CEA in its MoM has specified that the SCOD may be finalized at a later stage if all parties agree. During the said meeting, MUML was not aware of the uncontrollable issues/ force majeure events and change in the scope of work, which further delayed the project. The SCOD decided upon and contemplated in the MoM dated 27.11.2020 were not final and subject to further revision based on the progress of the PK Line, and once the final date was agreed upon by the parties as per the mechanism provided in the MoP Policy dated 15.7.2015 and the TSA. MUML also placed reliance on the APTEL's judgment dated 15.9.2022 in the Appeal No. 109 of 2021, "*Punjab State Transmission Corporation Limited vs. Central Electricity Regulatory Commission and Others*" (PSPTCL Case), and submitted that it is a settled law that the statements given or any resolutions adopted by the parties in such meetings cannot constitute an agreement which is binding on the parties.



113. The Petitioner has contended that the MUML assertion on the revised SCOD is misconceived and unsupported by the records. The MoM dated 27.11.2020 clearly reflects the decision to revise the SCOD to August 2023, following detailed deliberations involving all stakeholders. There is no indication in the MoM that the revised SCOD was provisional or contingent upon future developments regarding the PK Line. Further, the reliance placed on the APTEL's PSPTCL judgment is incorrect, as the factual position in that case is different from the present case.

114. With respect to the revised SCOD vide MoM dated 27.11.2020, based on the progress of the PK Line and reliance of MUML on the APTEL's judgment dated 15.9.2022 in the PSPTCL Case and on perusal of documents placed on record, we have observed that the MUML itself requested to revise the SCOD of the associated transmission line to 24.12.2022, vide letter dated 24.6.2020 and 8.9.2020. Accordingly, after the detailed discussion in the CEA meeting dated 3.11.2020 (MoM issued vide letter dated 27.11.2020), the SCOD of the associated line was revised to 31.7.2023. Therefore, we are of the view that, as per the request of MUML, the SCOD of the associated line was revised to 31.7.2023 and, thus, the contention of MUML that the SCOD of the PK line is not preponed is hereby rejected.

Issue-II: Whether the liability of sharing of transmission charges will arise under the 2020 Sharing Regulations or not?

115. MUML has contended that the 2020 Sharing Regulations, as notified by the Commission, cannot be made applicable between a line and an inter-connecting facility forming a part of one and the same transmission system. Regulation 13(12) of the 2020 Sharing Regulations imposes the liability, if any, only in the case of delay by the



transmission licensee. However, in the present case, there is no delay on the part of MUML in commissioning the PK Line on account of the inherent mismatch and the MoP orders. Therefore, no liability can be imposed on MUML. In accordance with the Tariff Regulations 2019, Sharing Regulation 2020 and the Indian Electricity Grid Code, 2010, it is clear that only a mismatch between two separate transmission systems can be billed bilaterally. The Petitioner has submitted that the contention of MUML is hyper-technical and liable to be dismissed. The concept of 'defaulter pays principle' has been adopted by the Commission in various orders and later incorporated in the Sharing Regulations in order to ensure the tariff recovery to a transmission licensee which has commissioned its scope of work and the assets are not put to commercial use due to the default of another transmission licensee which has not commissioned the asset in a matching timeframe.

116. We have considered the Petitioner's and MUML's submissions. The transmission line is under the scope of MUML, and the associated bays at the Phadge (PG) are under the scope of the Petitioner. Therefore, any mismatch in their implementation would be treated in terms of Regulation 13(12) of the 2020 Sharing Regulations.

Issue -III: Whether MUML is not liable to pay the transmission charges in view of MoP Notification dated 15.1.2021?

117. MUML has contended that the MoP vide notification dated 15.1.2021, while issuing the directions to the Commission under Section 107 of the Electricity Act, 2003, recognised the issues arising out of fastening of liability on the transmission licensee whose transmission system was delayed. The clauses in the Tariff Regulations 2019 are not proper as the penalties are uncapped, which would lead to inflated bids. In the case of a project executed under the TBCB Guidelines, the defaulting licensee is already



required to pay the liquidated damages as per the TSA, and the additional amount is not specified therein. The directions issued by the MoP under Section 107 of the Act are binding on the Commission.

118. The Petitioner has submitted that the APTEL, in the FBTL judgment, has already addressed and adjudicated upon the applicability of the aforementioned MoP directive. As the issue has been conclusively settled by the APTEL, therefore, MUML's reliance on the MoP directive is misplaced.

119. We have considered the Petitioner's and MUML's submission. As regards the MUML's reliance on the MoP's directions dated 15.1.2021, that bilateral liability ought not to be imposed on an individual licensee and that the Commission may make suitable amendments in the Sharing Regulations so that no additional penalties are levied on such licensees in case of a mismatch. The APTEL in the judgment dated 2.5.2023 in Appeal No. 352 of 2022 has held that:

"59. Viewed from any angle, we are satisfied that the directives in the letter dated 15.01.2021 do not bind the CERC, and it could not have been directed to amend the regulations. The power to declare subordinate legislation ultra vires, lies only with the Supreme Court and the High Courts exercising the power of judicial review, and is not within the province of the Central Govt or even this Tribunal. In any event, as the 2019 and the 2020 Regulations continue to remain in force, it is unnecessary for us to consider whether, even if it were to be amended, the amended provision would have any application to the present case."

Accordingly, the liability for payment of transmission charges shall be as per prevailing regulations.

Issue-IV : Whether MUML is liable to pay the transmission charges would amount to a change in the Law event?

120. MUML has contended that imposition of liability on MUML would amount to a 'change in law' event under Article 12 of the TSA and would indirectly amount to imposing



liability on the beneficiaries of ISTS. The cut-off date for claiming compensation on account of 'change in law' under the TSA is 20.5.2019, whereas the 2020 Sharing Regulations were notified on 4.5.2020 and, therefore, MUML reserves its rights to raise 'change in law' claims in the event any liability to pay transmission charges is fastened upon MUML.

121. We have considered the MUML's contentions. We are of the view that the MUML's plea to construe the levy of transmission charges under Regulation 13(12) of the 2020 Sharing Regulations as an event of 'change in law' cannot be considered in the instant Petition, and the same does not fall under the purview of the instant Petition, as the instant Petition has been filed under Regulation 86 of the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 and the Central Electricity Regulatory Commission(Terms and Conditions of Tariff) Regulations, 2019 by the Petitioner for determination of the transmission tariff. Therefore, the submissions made by MUML do not have merit and are, accordingly, rejected.

Issue-V: Applicability of APTEL Judgment dated 2.5.2023 in Appeal No. 352 of 2022.

122. MUML has submitted that no liability can be fastened on MUML as per the APTEL's judgment dated 2.5.2023 in Appeal No. 352 of 2022 (Fatehgarh Bhadla Transmission Company Limited v. Central Electricity Regulatory Commission & Ors.) as the same is per incuriam and it is pertinent to note that the said judgment has also been challenged before the Hon'ble Supreme Court vide Civil Appeal No. 4388/2023 and has not attained finality.



123. We have considered MUML's submissions. As per the MUML's submissions, regarding the judgment dated 2.5.2023 in Appeal No. 352 of 2022 being *per incuriam*, we would like to state that this Commission is bound by the order of the APTEL, and until the Hon'ble Supreme Court overturns the APTEL's judgment dated 2.5.2023, in Appeal No. 352 of 2022, in the Civil Appeal No. 4388/2023, wherein the APTEL has held that *force majeure* event does not absolve payment of mismatch charges and the same will be binding and applicable.

124. APTEL vide judgment dated 2.5.2023 in Appeal No. 352 of 2022, has observed as under:

"75. Section 62(1)(b) of the Act requires the Appropriate Commission to determine the tariff in accordance with the provisions of the Act for transmission of Electricity. Under the said provision, the CERC approves the capital cost, incurred by the transmission licensee with respect to the subject project, up to the date of its commissioning (its commercial operation date or COD), which the transmission licensee is entitled to recover through its tariff, along with return on equity. PGCIL had filed tariff Petition No. 9/TT/2021 before the CERC, invoking its jurisdiction under Section 62(1)(b), seeking determination of transmission tariff / charges for its transmission project, including Asset-6, under Section 62 of the Act read with the 2019 Regulations. Its yearly transmission tariff was determined by the CERC for the five-year block period 2019 to 2024. The liability for payment of transmission charges could have been fastened upon the beneficiaries/consumers only after they start receiving power through the commissioned inter-connected transmission assets. The delay on the Appellant's part in commissioning its transmission asset had left the transmission asset of PGCIL stranded resulting in no power being transmitted to the consumers. As PGCIL could not be denied yearly transmission charges after their transmission asset had been commissioned, and as consumers could not be called upon to pay such charges as they had not been supplied power, the Appellant was fastened with the liability to pay transmission charges to PGCIL for the mismatch period i.e., from 27.09.2019 when the transmission asset of PGCIL was deemed to have been commissioned, till 30.07.2021 when the transmission asset of the Appellant was actually commissioned, i.e. the period of delay in commissioning the Appellant's transmission asset.

76. Section 61 of the Act relates to tariff regulations, and thereunder the Appropriate Commission shall, subject to the provisions of the Act, specify the terms and conditions for the determination of tariff, and in doing so to be guided by clauses (a) to (i) thereunder. Clause (d) of Section 61 requires the Commission to be guided by the requirement of safeguarding consumers interest and, at the same time, ensure recovery of the cost of electricity in a reasonable manner. Regulation 6(2) of the 2019 Regulations and Regulation 13(2) of the 2020 Regulations seek to achieve this object. Thereby, PGCIL



has been permitted to avoid suffering losses on its transmission asset being commissioned, and to recover the yearly transmission charges from the Appellant which had delayed commissioning of its transmission asset. Since the beneficiaries/consumers would receive electricity only after the Appellant's transmission asset is commissioned and ARPRL commissions its generating asset and evacuates power, the aforesaid Regulations safeguard their interests also, in not fastening liability on them for the Appellant's delay in commissioning its transmission asset."

125. In light of the above, we do not find merit in the MUML's submissions and, therefore, the same are rejected.

Issue-VI : Whether the regulatory treatment for bilateral liability is different for TBCB and RTM in case of a mismatch?

126. MUML has contended that any liability of bilateral payment of the transmission charges on account of the uncontrollable issues/ force majeure events affecting an inter-connecting TBCB licensee (such as the MUML), which in turn delays the utilisation of assets belonging to the RTM licensee (such as the Petitioner), can be considered as an adverse impact of a force majeure event *qua* the RTM licensee (the Petitioner). Accordingly, any adverse impact on MUML on account of force majeure events affecting the transmission asset may be passed through as a tariff to the Petitioner DICs (through the PoC pool). In contrast, under the extant regulatory regime, a TBCB licensee does not have the same option, i.e., to socialise the costs of the adverse impact of force majeure events impacting a TBCB licensee by recovering the same from its DICs. In other words, a TBCB licensee cannot pass through the adverse impact of its bilateral liability towards another transmission licensee. In view of this clear difference between the regulatory treatment of the bilateral liability arising out of force majeure delay for RTM and TBCB licensees, it is imperative that the cases of a TBCB licensee and an RTM licensee are treated differently.



127. With regard to the MUML's contention, as we have already approved the COD of the transmission asset under Regulation 5(2) of the 2019 Tariff Regulations, since the associated transmission asset of MUML was not ready. As per Regulation 13(12) of the 2020 sharing Regulations, if the COD of the transmission asset has been approved under Regulation 5(2) of the 2019 Tariff Regulations, the transmission licensee has to bear the transmission charges of the transmission asset of the other transmission licensee till the COD of the interconnected transmission system under its scope. The said provision does not distinguish between a transmission project under the RTM route and the TBCB route.

Sharing of the Transmission Charges as per Our Analysis

128. In the instant case, the COD of the transmission asset has been approved as 30.8.2023 under Regulation 5(2) of the 2019 Tariff Regulations. As per Regulation 13(12) of the 2020 sharing Regulations, if the COD of the transmission asset has been approved under Regulation 5(2) of the 2019 Tariff Regulations, the transmission licensee has to bear the transmission charges of the transmission asset of the other transmission licensee till the COD of the interconnected transmission system under its scope.

129. Sharing of transmission charges under the 2020 Sharing Regulations is effective from 1.11.2020, and the relevant extracts of the 13(12) of the 2020 Sharing Regulations are as under:

“(12) In case of a transmission system where COD has been approved in terms of proviso (ii) of Clause (3) of Regulation 4 of the Tariff Regulations, 2014 or Clause (2) of Regulation 5 of the Tariff Regulations, 2019 or where deemed COD has been declared in terms of Transmission Service Agreement under Tariff based Competitive Bidding, the Yearly Transmission Charges for the transmission system shall be:

(a) paid by the inter-State transmission licensee whose transmission system is delayed till its transmission system achieves COD, or

(b) paid by the generating company whose generating station or unit(s) thereof is delayed, till the generating station or unit thereof, achieves COD, or



(c) shared in the manner as decided by the Commission on case to case basis, where more than one inter-State transmission licensee is involved or both transmission system and generating station are delayed.”

130. Further, w.e.f. 1.11.2023, Regulation 13(12) of the 2020 Sharing Regulations and subsequent amendments provide as under:

“(12) For the cases other than those covered under Clauses (3), (6) or (9) of Regulation 13 of these regulations, the YTC for the inter-State transmission system or element thereof approved or declared as deemed COD shall be treated as follows:

- (a) The inter-State transmission licensee shall be paid 50% of YTC of its inter-State transmission system for a period of six (6) months from the date of deemed COD or till the commencement of actual power flow, whichever is earlier.*
- (b) The inter-State transmission licensee shall be paid 100% of YTC of its inter-State transmission system from the seventh (7th) month till the commencement of actual power flow, in case actual power flow does not commence within a period of 6 months from the date of deemed COD.*
- (c) The charges under sub-clauses (a) and (b) of this Clause shall be disbursed from charges collected in terms of Clause (3) of Regulation 12 of these regulations:*

Provided that in case of shortfall in the collection in terms of Clause (3) of Regulation 12 of these regulations, to meet the requirement of payment under sub-clauses (a) and (b) of this Regulation, the balance shall be paid from charges collected under T-GNA and TGNARE in terms of Clause (3) of Regulation 11 of these regulations:

Provided further that in case of shortfall in charges collected under T-GNA and TGNARE to meet the requirement of payment under sub-clauses (a) and (b) of this Regulation, the balance shall be paid from Deviation and Ancillary Service Pool Account under DSM Regulations.

-----”

131. Therefore, as stated above, the entity responsible for the execution of the downstream or upstream transmission system or a generating station has to bear the transmission charges for the period of the mismatch of the transmission asset from the COD of the transmission asset/ scheme under its scope as per Regulation 13(12) of the 2020 Sharing Regulations. In the instant Petition, the COD of the transmission asset has been approved as of 30.8.2023 under Regulation 5(2) of the 2019 Tariff Regulations, as the downstream associated transmission line under the scope of MUML has not been ready/commissioned. Further, the associated transmission line was commissioned on



28.9.2024 as submitted by MUML. Therefore, we are of the view that the transmission charges of the transmission asset should be borne by MUML from the COD of the transmission asset (30.8.2023) to 27.9.2024 (i.e., from 30.8.2023 to 27.9.2024) as mentioned below and, thereafter, the transmission charges of the transmission asset shall be recovered as per the provisions of the 2020 Sharing Regulations as provided in Regulation 57 of the 2019 Tariff Regulations.

Period	30.8.2023 to 31.10.2023	1.11.2023 to 29.2.2024	1.3.2024 to 27.9.2024	28.9.2024 onwards
Recovery of YTC of the transmission asset of the Petitioner	100% from MUML	50% YTC as per Regulation 13(12) of 2020 Regulations Sharing Regulations	100% YTC as per Regulation 13(12) of t 2020 Sharing Regulations	In accordance with Regulations 5 to 8 of 2020 Sharing Regulations
Recovery from MUML	100% YTC of the transmission asset	50% YTC of Asset 1 or 50 % YTC of MUML system delayed, whichever is lower, as per Regulation 13(12)		NIL

Interim Tariff

132. The Petitioner has prayed to allow an interim tariff, in accordance with Regulation 10(3) of the 2019 Tariff Regulations, to be included in the Point-of-Connection charges.

133. We have considered the Petitioner's submissions. Since we have determined the transmission tariff with respect to the transmission asset in this order, the prayer for the interim tariff becomes redundant, and the same has not been considered in this order.

134. To summarise, AFC allowed with respect to the transmission asset for the 2019-24 tariff period in this order are as follows:

(₹ in lakh)	
AFC Allowed	2023-24
AFC Claimed (pro rata for 215 days)	448.53
AFC Allowed (pro rata for 215 days)	444.17



135. Annexure to this order given hereinafter forms part of the order.

136. This order disposes of Petition No. 149/TT/2024 in terms of the above findings and discussions.

sd/-
(Harish Dudani)
Member

sd/-
(Ramesh Babu V.)
Member

sd/-
(Jishnu Barua)
Chairperson



Annexure

(₹ in lakh)

Capex	Admitted Capital Cost as on COD	Projected ACE			Admitted Capital Cost as on 31.3.2024	Depreciation Rate (in %)	Annual Depreciation		
		2021-22	2022-23	2023-24			2021-22	2022-23	2023-24
Building	0.00	0.00	0.00	0.00	0.00	3.34	0.00	0.00	0.00
Transmission Line	0.00	0.00	0.00	0.00	0.00	5.28		0.00	0.00
Sub-station	3585.33	0.00	0.00	894.83	4480.16	5.28	0.00	0.00	212.93
PLCC	99.26	0.00	0.00	7.85	107.11	6.33	0.00	0.00	6.53
IT Equipment	42.43	0.00	0.00	11.78	54.21	15.00	0.00	0.00	7.25
Total	3727.02	0.00	0.00	914.46	4641.48		0.00	0.00	226.71
						Average Gross Block	0.00	0.00	4184.25
						WAROD (in %)	0.00	0.00	5.42

